Republika Srbija
Ministarstvo rudarstva i energetike
Ministarstvo poljoprivrede i zaštite životne sredine

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IZGRADNJA POSTROJENJA I PROIZVODNJA ELEKTRIČNE ENERGIJE U FOTOSOLARNIM ELEKTRANAMA U REPUBLICI SRBIJI

Vodič za investitore

CONSTRUCTION OF PLANTS AND ELECTRICITY GENERATION FROM PHOTOVOLTAIC PLANTS IN THE REPUBLIC OF SERBIA

Guide for investors

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IZGRADNJA POSTROJENJA I PROIZVODNJA ELEKTRIČNE ENERGIJE U FOTOSOLARNIM ELEKTRANAMA U REPUBLICI SRBIJI

Vodič za investitore

Sadržaj

Predgovor

Program Ujedinjenih nacija za razvoj (UNDP), kao implementaciona agencija Globalnog fonda za zaštitu životne sredine (GEF), sprovodi u partnerstvu sa Ministarstvom rudarstva i energetike i Ministarstvom poljoprivrede i zaštite životne sredine Republike Srbije GEF Projekat: „Smanjenje barijera za ubrzani razvoj tržišta biomase u Srbiji".

Cilj Projekta je da se poveća udeo energije iz obnovljivih izvora u energetskom bilansu Srbije, odnosno udeo biomase u proizvodnji energije.

Jedna od aktivnosti projekta je izgradnja kapaciteta svih aktera za identifikaciju, pripremu, finansiranje, izgradnju i upravljanje bankabilnim projektima korišćenja obnovljivih izvora energije u okviru koje je izvršena revizija šest postojećih zastarelih vodiča za investiture u postrojenja koja koriste obnovljive izvore energije:

1. IZGRADNJA POSTROJENJA I PROIZVODNJA ELEKTRIČNE/TOPLOTNE ENERGIJE IZ BIOMASE U REPUBLICI SRBIJI
2. IZGRADNJA POSTROJENJA I PROIZVODNJA ELEKTRIČNE ENERGIJE U MALIM HIDROELEKTRANAMA U REPUBLICI SRBIJI
3. IZGRADNJA POSTROJENJA I PROIZVODNJA ELEKTRIČNE ENERGIJE U VETROELEKTRANAMA U REPUBLICI SRBIJI
4. IZGRADNJA POSTROJENJA I PROIZVODNJA ELEKTRIČNE/TOPLOTNE ENERGIJE IZ HIDROGEOTERMALNIH IZVORA U REPUBLICI SRBIJI
5. IZGRADNJA POSTROJENJA I PROIZVODNJA ELEKTRIČNE ENERGIJE U SOLARNIM ELEKTRANAMA U REPUBLICI SRBIJI
6. IZGRADNJA SOLARNIH GREJNIH SISTEMA U REPUBLICI SRBIJI

Svi vodiči su dvojezični i, izuzev jednog, izrađeni su u dve verzije. U šest detaljnih vodiča opisane su celokupne složene procedure za izgradnju postrojenja i obavljanje delatnosti proizvodnje energije iz konkretnih obnovljivih izvora, uz upućivanje na odgovarajuće propise i navođenje nadležnih institucija. Detaljni vodiči namenjeni su, pre svega, investitorima i stručnjacima koji rade na razvoju projekata, ali i zaposlenima u različitim nadležnim državnim organima, s obzirom na međusektorski karakter procedura. U pet kratkih vodiča ova složena problematika prikazana je manje detaljno i na slikovit način, čime se tema približava i širem krugu zainteresovanih strana.

Cilj izrade vodiča bio je da se podstaknu i pomognu investitori da ulažu u obnovljive izvore energije u Srbiji, ali i da se, kroz detaljno sagledavanje složenih procedura za izgradnju postrojenja i obavljanje delatnosti proizvodnje energije iz obnovljivih izvora, uoče njihovi nedostaci i da se podstaknu nadležni da kroz zakonodavne i institucionalne aktivnosti ove procedure pojednostave i unaprede. Nadamo se da će ovi Vodiči pokrenuti konstruktivni dijalog između mnogobrojnih zainteresovanih strana i time doprineti boljoj informisanosti i međusobnom razumevanju, što u krajnjoj liniji treba da rezultira povoljnim okruženjem za investicije u sektoru obnovljivih izvora energije.

Sadržaj

1.

UVOD

1. UVOD[1]

1.1 Pojam elektrane koja koristi sunčevu energiju

Obnovljivi izvori energije su nefosilni izvori energije kao što su: vodotokovi, biomasa, vetar, sunce, biogas, deponijski gas, gas iz pogona za preradu kanalizacionih voda i izvori geotermalne energije[2]. Eksploatacija ovih izvora doprinosi efikasnijem korišćenju sopstvenih potencijala u proizvodnji energije, smanjenju emisije gasova staklene bašte, smanjenju uvoza fosilnih goriva, razvoju lokalne industrije i otvaranju novih radnih mesta.

Objekti koji koriste energiju sunčevog zračenja za obavljanje energetske delatnosti proizvodnje električne energije iz potencijala sunčevog zračenja nazivaju se solarne elektrane (u daljem tekstu: elektrane ili solarne elektrane). S obzirom na razvoj tehnologije, moguće je postaviti više solarnih kolektora, povezati ih i proizvoditi električnu energiju na taj način radi obavljanja energetske delatnosti.

Solarna elektrana radi na principu fotonaponskog efekta, pri čemu se pod uticajem sunčevog zračenja u solarnim ćelijama generiše jednosmerni napon i struja. Pomoću invertora, jednosmerni napon i struja se pretvaraju u naizmenični oblik i tako plasiraju u elektroenergetsku mrežu. Elektrane koje u procesu proizvodnje električne energije u pojedinačnom proizvodnom objektu koriste sunčevu energiju instalisane snage najviše do 10 MW, ukoliko ispune određene uslove, mogu steći status povlašćenog proizvođača električne energije[3], privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

Prosečno sunčevo zračenje u Srbiji je za oko 40% veće od evropskog proseka, ali i pored toga korišćenje sunčeve energije za proizvodnju električne energije daleko zaostaje za zemljama Evropske unije. Stvaranje uslova za razvoj i funkcionalnost održivog tržišta fotonaponskih sistema je od velikog značaja za ekonomiju i očuvanje prirodne sredine u Srbiji.

Energija zračenja Sunca koja dolazi do zemljine površine, dakle potencijalno iskoristivo zračenje Sunca, iznosi oko 1,9 x 10^8 TWh (190 miliona teravat časova) godišnje[4]. Ta energija je oko 170 puta veća od energije ukupnih rezervi uglja u svetu i kada se uporedi sa energetskim potrebama čovečanstva, koje iznose 1,3 x 10^5 TWh (130 hiljada teravat časova) godišnje[5], dobija se podatak da je sunčeva energija koja stiže na površinu Zemlje u toku samo 6 časova dovoljna da zadovolji sve svetske potrebe na godišnjem nivou. Da bi se dobio bolji uvid u ove veličine prosečno domaćinstvo u nekim od najrazvijenijih zemalja sveta troši godišnje oko 10,000 kWh električne energije i bilo bi potrebno oko 100 000 godina da se potroši 1 TWh.

Oko 37% svetske potražnje za energijom zadovoljava se proizvodnjom električne

1 Potrebno je ukazati da se ovaj Vodič odnosi na elektrane koje koriste sunčevu energiju za proizvodnju električne energije u opštem smislu i da su u njemu opisane procedure pred nadležnim organima i institucijama, ali da pojedini elementi ovih procedura, kao i sprovođenje pojedinih procedura zavisi od veličine objekta, mesta na kome se gradi objekat, konkretne tehnologije za proizvodnju energije i drugih karakteristika samog objekta. Ovaj Vodič sačinjen je prema propisima koji su u Republici Srbiji bili na snazi dana 1. jula 2016. godine.

2 Član 2. tačka 47) Zakona o energetici („Sl. glasnik RS" br. 145/14).

3 Više o povlašćenim proizvođačima u poglavlju 6. ovog Vodiča.

4 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, decembar 2009.godine.

5 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, decembar 2009.godine.

energije koja je u toku 2008. godine iznosila 17 000 TWh[6]. Ako bi se ova energija generisala sistemima koji energiju sunčevog zračenja pretvaraju u električnu, skromne godišnje izlazne snage od 100 kWh po kvadratnom metru, neophodna bi bila površina od 150 x 150 km^2 za apsorpciju sunčeve energije[7]. Veliki deo ove apsorpcione površine mogao bi se smestiti na krovovima i zidovima zgrada, te ne bi zahtevao dodatne površine na tlu.

Površina zemljišta-tla neophodna za instalaciju fotonaponskih panela zavisi od više faktora: primenjenog tehničkog rešenja, geografske lokacije, instalisane snage i efikasnosti fotonaponskih panela, nagiba terena, kao i načina montaže, odnosno da li je panel fiksiran ili postoji sistem za praćenje sunca, itd.

S obzirom na razvoj tehnologije za proizvodnju fotonaponskih panela, u trenutku izrade ovog vodiča, važe sledeće informacije: nekada primenjivan panel od 250Wp, sa dimenzijama (992 x 1650) mm, dostupan je sada sa kapacitetom od 265Wp, u istim dimenzijama panela. Ovim panelima je potrebna površina za instalaciju na konstrukciji na zemlji od 4,5 - 5 m^2. Na tržištu su dosta popularni paneli sa kapacitetom od 310 Wp do 320 Wp, sa dimenzijama (982 x 1954) mm. Ovim panelima je potrebna površina za instalaciju na konstrukciji na zemlji od 5,3 - 5,9 m^2. Drugim rečima, zahvaljujući intenzivnom razvoju tehnologije izrade fotonaponskih panela došlo je do povećanja instalisane snage po jedinici površine neophodne za instalaciju, u odnosu na panele prethodne generacije, odnosno na istoj površini sada je moguće instalirati veću instalisanu snagu. Podsećanja radi pre dve godine podaci su bili sledeći: orijentaciono, za 1 MW instalisane snage bilo je potrebno oko 1,7-2 ha zemlje. Znaci koeficijent je tada bio 1:2, ali je i koeficijent 1:3 takođe bio održiv u praksi, odnosno za 1 MW instalisane snage bilo je potrebno do 3 ha zemlje. Pored povećanja kapaciteta, koji je nesumnjivo najbitniji faktor kod fotonaponskih panela, istraživanja idu u smeru povećanja fleksibilnosti i efikasnosti, ali i smanjenja cene.

Energija sunčevog zračenja dovoljna je da proizvede prosečno 1,700 kWh električne energije godišnje po kvadratnom metru tla, a što je zračenje na nekoj lokaciji veće, veća je i generisana energija. Tropski regioni su u ovom pogledu povoljniji od ostalih regiona sa umerenijom klimom. Srednja ozračenost u Evropi iznosi oko 1,000 kWh po kvadratnom metru dok, poređenja radi, ona iznosi 1,800 kWh na Bliskom istoku.

Energetski potencijal sunčevog zračenja je za oko 30% viši u Srbiji nego u Srednjoj Evropi, a intenzitet sunčevog zračenja je među najvećima u Evropi. Prosečna dnevna energija globalnog zračenja za ravnu površinu u toku zimskog perioda kreće se između 1,1 kWh/m^2 na severu i 1.7 kWh/m^2 na jugu, a u toku letnjeg perioda između 5,9 kWh/m^2 na severu i 6,6 kWh/m^2 na jugu. Radi poređenja, prosečna vrednost globalnog zračenja za teritoriju Nemačke iznosi oko 1000 kWh/m^2, dok je za centralnu Srbiju ta vrednost oko 1400 kWh/m^2.

Godišnji odnos stvarne ozračenosti i ukupne moguće ozračenosti u Srbiji je približno 50%. Svi ovi podaci jasno pokazuju da Srbija raspolaže resursima energije sunčevog zračenja znatno iznad evropskog proseka uz izuzetno povoljan sezonski raspored.

Zahvaljujući značajnom sniženju cena u prethodnim godinama ukupan instalisani kapacitet fotonaponskih panela u svetu je, krajem 2014. godine, iznosio 178 GW. Najveća tržišta, u 2014. godini, bila su Kina, Japan, SAD. Nakon što je u 2013. godini ukupno instalirano oko 37 GW, u 2014. godini je postavljen novi rekord od 40 GW instaliranih fotonaponskih panela u svetu. Predviđanja idu u smeru da će ukupni instalisani kapacitet u svetu, do 2020. godine, iznositi 540 GW, dok se za teritoriju EU predviđa porast 80%, u istom periodu. Već sada, tri EU članice, Italija, Nemačka i Grčka, više od 7% svoje potrošnje podmiruju proizvodnjom

6 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, decembar 2009.godine.
7 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, decembar 2009.godine.

iz fotonaponskih panela. Evropa, za sada, drži liderskу poziciju u ukupnom instalisanom kapacitetu fotonaponskih panela.[8]

Cena fotonaponskih panela snižena je za 75% u periodu od 10 godina. Očekuje se da će svetsko tržište fotonaponskih panela dostići 100 milijardi evra u 2015. godini. Iz energije sunčevog zračenja danas se podmiruje oko 1% svetske potrošnje električne energije, što je ekvivalentno proizvodnji iz 33 termoelektrane na ugalj od 1GW. U sve većem broju zemalja proizvodnja električne energije iz fotonaponskih panela je pouzdana, održiva i cenovno konkurentna, u odnosu na ostale izvore električne energije. Cena fotonaponskih sistema je sada ispod 1EUR/Wp, za instalisanu snagu preko 1MW, i važi za većinu EU članica.[9]

1.2. Izvori prava

Izgradnja elektrane i obavljanje delatnosti proizvodnje električne energije u ovakvim elektranama je regulisana brojnim propisima Republike Srbije.

Izvori prava Republike Srbije mogu se podeliti na više grupa propisa, koje će se razmotriti u daljim odeljcima ovog teksta.

U grupu propisa kojima je uređena oblast planiranja i izgradnje objekata spadaju: Zakon o planiranju i izgradnji[10], Zakon o prostornom planu Republike Srbije[11], podzakonska akta ovih zakona i drugi. Prostorni planovi (regionalni prostorni planovi, prostorni planovi jedinice lokalne samouprave i prostorni planovi područja posebne namene) i urbanistički planovi (generalni urbanistički plan, plan generalne regulacije, plan detaljne regulacije) su planski dokumenti. Zakonom o planiranju i izgradnji i podzakonskim aktima ovog zakona kojima je uređena oblast izgradnje propisan je postupak dobijanja informacije o lokaciji i lokacijskih uslova, građevinske dozvole i upotrebne dozvole, a planskim dokumentima su definisani ciljevi prostornog planiranja i razvoja, odnosno prostornog uređenja, odnosno da li je planirano da se u određenom vremenskom periodu izgradi određeni objekat na određenom mestu u Republici Srbiji. Neophodan element za dobijanje navedenih dozvola je pribavljanje tehničkih uslova za priključenje na elektroenergetsku mrežu, kao i drugih uslova.

U grupu propisa kojima je uređena oblast energetike spadaju: Zakon o energetici, prateći propisi ovog zakona, Strategija razvoja energetike Republike Srbije[12]i drugi propisi koji se odnose na izdavanje energetske dozvole, priključenje objekta na mrežu, sticanja različitih statusa proizvođača električne energije iz obnovljivih izvora energije i ostvarivanje podsticajnih mera za ove proizvođače i drugo o čemu će više biti reči u ovom Vodiču.

U grupu propisa kojima je uređena oblast zaštite životne sredine i korišćenja prirodnih resursa spadaju: Zakon o zaštiti životne sredine[13], Zakon o proceni uticaja na životnu sredinu[14], Zakon o strateškoj proceni uticaja na životnu sredinu[15], Zakon o integrisanom sprečavanju i kontroli zagađenja[16], Zakon o zaštiti vazduha[17], Zakon o zaštiti prirode[18], Zakon o vodama[19],

8 The European Photovoltaic Industry Association (EPIA), od 2015.godine Solar Power Europe, http://www.solarpowereurope.org
9 The European Photovoltaic Industry Association (EPIA), od 2015.godine Solar Power Europe, http://www.solarpowereurope.org
10 Zakon o planiranju i izgradnji („Sl. glasnik RS“ br. 72/09, 81/09, 64/10 - odluka US, 24/11, 121/12, 42/13 - odluka US, 50/13 - odluka US, 98/13 - odluka US, 132/14 i 145/14).
11 Zakon o prostornom planu Republike Srbije („Sl. glasnik RS“ br. 88/10).
12 Strategija razvoja energetike Republike Srbije do 2025. godine sa projekcijama do 2030. godine („Sl. glasnik RS“ br. 101/15).
13 Zakon o zaštiti životne sredine („Sl. glasnik RS“ br. 135/04, 36/09 i 14/16).
14 Zakon o proceni uticaja na životnu sredinu („Sl. glasnik RS“ br. 135/04 i 36/09).
15 Zakon o strateškoj proceni uticaja na životnu sredinu („Sl. glasnik RS“ br. 135/04 i 88/10).
16 Zakon o integrisanom sprečavanju i kontroli zagađenja („Sl. glasnik RS“ br. 135/04 i 25/15).
17 Zakon o zaštiti vazduha („Sl. glasnik RS“ br. 10/13).
18 Zakon o zaštiti prirode („Sl. glasnik RS“ br. 36/09, 88/10, 91/10 i 14/16).
19 Zakon o vodama („Sl. glasnik RS“ br. 30/10 i 93/12).

Zakon o šumama[20], podzakonski propisi doneti na osnovu ovih zakona, kao i drugi propisi kojima se uređuje zaštita životne sredine, kao i zaštita i korišćenje prirodnih dobara.

Ovde je potrebno napomenuti značaj propisa iz oblasti protivpožarne zaštite, koji su značajni kako u fazi izrade projektne dokumentacije i građenja elektrane, tako i kada ova elektrane počne da obavlja delatnost.

Postupci koji se odnose na dobijanje raznih dozvola koje izdaju državni (upravni) organi i drugi postupci neophodni za dobijanje prateće dokumentacije su upravni postupci, a rokovi za dobijanje ovih akata su utvrđeni samim merodavnim propisom kojim je regulisan postupak dobijanja konkretnog upravnog akta u slučaju da ovi rokovi nisu utvrđeni konkretnim propisima, na rok za izdavanje konkretnog upravnog akta se primenjuje Zakon o opštem upravnom postupku.[21]

20 Zakon o šumama („Sl. glasnik RS" br. 30/10 i 93/12).

21 Članom 145. Zakona o opštem upravnom postupku („Sl. glasnik RS" br. 18/16), utvrđeno je da je rok za izdavanje rešenja nadležnog upravnog organa najkasnije 30 dana od dana pokretanja postupka u slučaju kad je postupak pokrenut u interesu stranke i kada se o toj upravnoj stvari odlučuje u postupku neposrednog odlučivanja, a ako se radi o slučaju kad je postupak takođe pokrenut u interesu stranke ali kada se o toj upravnoj stvari ne odlučuje u postupku neposrednog odlučivanja, organ je dužan da izda rešenje najkasnije u roku od 60 dana od dana pokretanja postupka. Opšti rok za žalbu je 15 dana od dana obaveštavanja stranke o rešenju, ako zakonom nije drugačije utvrđeno. Članom 153. stav 2. Zakona o opštem upravnom postupku, utvrđeno je da u slučaju da prvostepeni upravni organ ne izda rešenje u zakonom propisanom roku, žalba može da se podnese posle isteka tog roka, a najkasnije u roku od godinu dana od isteka tog roka.

2.1

STICANJE PRAVA NA IZGRADNJU ELEKTRANE

2. STICANJE PRAVA NA IZGRADNJU ELEKTRANE

2.1. Postupak izgradnje elektrane

Da bi se u Republici Srbiji izgradio i koristio bilo koji objekat, pa i objekat solarne elektrane, neophodno je da se ispune sledeći uslovi: 1) pribavljanje informacije o lokaciji ili lokacijskih uslova i izrada tehničke dokumentacije; 2) pribavljanje energetske dozvole; 3) pribavljanje građevinske dozvole; 4) građenje objekta i 5) tehnički pregled objekta i pribavljanje upotrebne dozvole.

Stupanjem na snagu Zakona o izmenama i dopunama Zakona o planiranju i izgradnji iz 2014. godine, uvedena je objedinjena procedura za izdavanje i izmene lokacijskih uslova; izdavanje građevinske dozvole i izmene rešenja o građevinskoj dozvoli; prijavu radova; izdavanje upotrebne dozvole; kao i u slučajevima izdavanja rešenja za izgradnju objekata i izvođenje radova za koje se ne izdaje građevinska dozvola za izgradnju postrojenja (u daljem tekstu: Akta objedinjene procedure) i čijom primenom u velikoj meri treba da bude ubrzan postupak pribavljanja ovih akata, na način da se imaoci javnih ovlašćenja (državni organi, organi autonomne pokrajine i lokalne samouprave, posebne organizacije i druga lica koja vrše javna ovlašćenja u skladu sa zakonom) po službenoj dužnosti, u veoma kratkim rokovima, izdaju uslove (za priključenje na infrastrukturnu mrežu, upis prava svojine na izgrađenom objektu i sl.), saglasnosti ili druge isprave koji sadrže neophodne elemente za izdavanje Akata objedinjene procedure. Imaoci javnih ovlašćenja ove uslove, saglasnosti ili druge isprave izdaju neposredno organima za izdavanja Akata objedinjene procedure.[22][23]

Građenje objekata u Republici Srbiji, formalno, započinje dobijanjem građevinske dozvole, a vrši se na osnovu građevinske dozvole i tehničke dokumentacije, pod uslovima i na način utvrđen Zakonom o planiranju i izgradnji.

Pravilnikom o energetskoj dozvoli[24] utvrđeno je da je jedan od uslova da bi se izdala energetska dozvola pribavljanje informacije o lokaciji ili lokacijskih uslova. Iz navedenog proizilazi da se postupak pribavljanja energetske dozvole može sprovesti posle pribavljanja Informacije o lokaciji ili lokacijskih uslova.

U postupku pribavljanja građevinske dozvole, za solarne elektrane ne postoji potreba izrade Studije o proceni uticaja na životnu sredinu, osim ako se objekat gradi u zaštićenom prirodnom dobru i zaštićenoj okolini nepokretnog kulturnog dobra, kao i u drugim područjima posebne namene, kada se može tražiti Studija o proceni uticaja na životnu sredinu.[25]

Potrebno je ukazati, da na zaštićenim područjima postoji prioritetna zabrana izgradnje objekata za proizvodnju energije, shodno Zakonu o zaštiti prirode i Uredbi o režimima

22 Objedinjenom procedurom nije obuhvaćeno izdavanje informacije o lokaciji i izdavanje uslova za projektovanje i priključenje na prenosni sistem električne energije, za pojedine objekte, u skladu sa zakonom kojim se uređuje energetika.

23 Od 01.01.2016. godine, sve prijave u okviru objedinjene procedure moguće podnositi isključivo u elektronskoj formi i to putem sledeće internet stranice: http://gradjevinskedozvole.rs/. Za elektronsko potpisivanje dokumenata neophodno je posedovanje kvalifikovanog elektronskog sertifikata.

24 Pravilnik o energetskoj dozvoli („Sl. glasnik RS" br. 15/15).

25 Uredba o utvrđivanju Liste projekata za koje je obavezna procena uticaja i Liste projekata za koje se može zahtevati procena uticaja na životnu sredinu („Sl. glasnik RS" br. 114/08).

zaštite[26]. Ipak, u zavisnosti od stepena režima zaštite uspostavljen je sledeći režim i to: 1) na područjima režima zaštite I stepena ne mogu se graditi solarne elektrane; 2) na područjima režima zaštite II stepena izgradnja solarnih elektrana se ograničava na kapacitet do ukupno 50 kW i 3) na područjima režima zaštite III stepena – mogu se graditi solarne elektrane kapaciteta do ukupno 100 kW - shodno Uredbi o režimima zaštite.

2.1.1. Izbor lokacije, uvid u važeće planske dokumente i informacija o lokaciji

Prvi korak potencijalnog investitora, odnosno lica za čije potrebe se gradi objekat i na čije ime će da glasi građevinska dozvola za izgradnju solarne elektrane je, svakako, izbor lokacije.

Drugi korak investitora[27] je provera da li je u važećim planskim dokumentima[28] na izabranoj lokaciji predviđena izgradnja energetskog objekta. Treba imati u vidu da se solarne elektrane mogu graditi i na poljoprivrednom zemljištu, a uz prethodno pribavljenu saglasnost ministarstva nadležnog za poljoprivredu. Takođe, postoje i pravila o promeni namene šumskog zemljišta[29], koja se primenjuje i u slučaju da je lokacija za izgradnju objekta odabrana na šumskom zemljištu.

U jedinici lokalne samouprave, na čijoj teritoriji se nalazi izabrana lokacija, može se dobiti na uvid važeći planski dokument u kome se može proveriti da li je na toj lokaciji predviđena izgradnja energetskih objekata.

Za željenu lokaciju se zatim podnosi zahtev za dobijanje informacije o lokaciji, a radi dobijanja podataka o mogućnostima i ograničenjima gradnje na razmatranoj katastarskoj parceli u skladu sa važećim planskim dokumentom.

Zahtev za izdavanje informacije o lokaciji, podnosi se organu nadležnom za izdavanje lokacijskih uslova.[30] Uz zahtev za izdavanje informacije o lokaciji podnosi se kopija plana parcele/parcela, a koja se prethodno traži u nadležnoj službi za katastar nepokretnosti na teritoriji opštine. Preporuka je da se uporedo sa zahtevom za izdavanje kopije plana, službi za katastar nepokretnosti podnese i zahtev za izdavanje i prepisa lista nepokretnosti za predmetne katastarske parcele, kako bi se utvrdio vlasnik zemljišta.

26 Uredba o režimima zaštite („Sl. glasnik RS" br. 31/12).

27 Pod pojmom "investitor" podrazumeva se lice za čije potrebe se gradi objekat i na čije ime glasi građevinska dozvola – član 2. tačka 21) Zakona o planiranju i izgradnji. Ovaj zakon u članu 2. tačka 43) utvrđuje i pojam „finansijer" pod kojim se podrazumeva lice koje po osnovu zaključenog i overenog ugovora sa investitorom finansira, odnosno sufinansira izgradnju, dogradnju, rekonstrukciju, adaptaciju, sanaciju ili izvođenje drugih građevinskih odnosno investicionih radova predviđenih ovim zakonom i na osnovu tog ugovora stiče određena prava i obaveze koje su ovim zakonom propisane za investitora u skladu sa tim ugovorom, osim sticanja prava svojine na objektu koji je predmet izgradnje.

28 Zakonom o planiranju i izgradnji je uređena situacija u slučaju da ne postoji važeći planski dokument. Potrebno je takođe ukazati da se prilikom izrade planskih dokumenata vrši Strateška procena uticaja na životnu sredinu.

29 Član 10. Zakona o šumama.

30 Lokacijske uslove za izgradnju solarne elektrane snage 10 MW i više, izdaje ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine ukoliko se elektrana nalazi u celini na teritoriji autonomne pokrajine. Za solarne elektrane snage do 10 MW lokacijske uslove izdaje nadležni organ jedinice lokalne samouprave na čijoj se teritoriji nalazi.

Informacija o lokaciji pored naziva podnosioca zahteva, broja katastarske parcele i mesta na kom se nalazi sadrži[31] i podatke o: 1) planskom dokumentu na osnovu koga se izdaje; 2) zoni u kojoj se nalazi; 3) nameni zemljišta; 4) regulacionim i građevinskim linijama; 5) pravilima građenja; 6) uslovima priključenja na infrastrukturu; 7) potrebi izrade detaljnog urbanističkog plana ili urbanističkog projekta[32]; 8) katastarskoj parceli, odnosno o tome da li katastarska parcela ispunjava uslove za građevinsku parcelu sa uputstvom o potrebnom postupku za formiranje građevinske parcele; 9) inženjersko geološkim uslovima; 10) posebnim uslovima za izdavanje lokacijskih uslova (spisak uslova). Informacija o lokaciji omogućava licu, na čije ime je izdata da sagleda koje uslove će trebati da ispuni da bi mogao graditi objekat na određenoj lokaciji. Ovi uslovi obuhvataju posebne uslove (uslovi zaštite spomenika kulture, uslovi očuvanja životne sredine, itd.) i tehničke uslove (mesto i način tehničkih priključaka objekta na infrastrukturne vodove, kao i njihovi kapaciteti).

Informaciju o lokaciji izdaje organ nadležan za izdavanje lokacijskih uslova, u roku od osam dana od dana podnošenja zahteva, uz naknadu stvarnih troškova izdavanja te informacije. [33]

31 Pravilnik o sadržini informacije o lokaciji i o sadržini lokacijske dozvole („Sl. glasnik RS" br. 3/10).

32 Urbanistički projekat se izrađuje za jednu ili više građevinskih parcela (formiranu građevinsku parcelu) na overenom katastarsko-prostornom planu. Urbanistički projekat se izrađuje kada je to predviđeno planskim dokumentom ili na zahtev investitora, za potrebe urbanističko-arhitektonske razrade lokacija. Urbanistički projekat se izrađuje za jednu ili više katastarskih parcela na overenom katastarsko-topografskom planu. Ovim projektom za urbanističko-arhitektonsku razradu lokacije može se utvrditi promena i precizno definisanje planiranih namena u okviru planom definisanih kompatibilnosti, prema proceduri za potvrđivanje urbanističkog projekta utvrđenoj Zakonom o planiranju i izgradnji. Promena i precizno definisanje planiranih namena, dozvoljena je kada je planom predviđena bilo koja od kompatibilnih namena. Urbanistički projekat može da izrađuje privredno društvo, odnosno drugo pravno lice ili preduzetnik koji je upisan u registar za izradu urbanističkih planova i tehničke dokumentacije, a izradom projekta rukovodi odgovorni licencirani urbanista arhitektonske struke. Organ jedinice lokalne samouprave nadležan za poslove urbanizma potvrđuje da urbanistički projekat nije u suprotnosti sa važećim planskim dokumentom, Zakonom o planiranju i izgradnji i podzakonskim aktima ovog zakona. Pre potvrđivanja urbanističkog projekta, ovaj organ organizuje javnu prezentaciju u trajanju od sedam dana, tokom koje evidentira sve primedbe, a zatim u roku od tri dana urbanistički projekat sa svim primedbama i sugestijama dostavlja Komisiji za planove, koja je dužna da u roku od osam dana razmotri sve primedbe i sugestije izvrši stručnu kontrolu i utvrdi da li je urbanistički projekat u suprotnosti sa planom šireg područja, o čemu sačinjava pisani izveštaj sa predlogom o prihvatanju ili odbijanju urbanističkog projekta. Nadležni organ jedinice lokalne samouprave je dužan da u roku od pet dana od dana dobijanja predloga komisije potvrdi ili odbije potvrđivanje urbanističkog projekta i o tome bez odlaganja pisanim putem obavesti podnosioca zahteva. Ukoliko je potvrdio urbanistički projekat ovaj organ je dužan da u roku od pet dana od dana potvrđivanja, projekat objavi na svojoj internet stranici. Investitor ima pravo da na obaveštenje o potvrdi ili odbijanju potvrđivanja urbanističkog projekta podnese prigovor u roku od tri dana od dana prijema rešenja.

33 U praksi se događa da organ koji izdaje informaciju o lokaciji izda različitim zainteresovanim licima informaciju o lokaciji za istu solarnu elektranu, bez obaveštenja da je već izdao informaciju o lokaciji za isti ili sličan objekat na istoj lokaciji. Prilikom pribavljanja informacije o lokaciji preporučuje se proveriti da li je već izdata informacija o lokaciji za isti ili sličan objekat na istoj lokaciji.

2.1.2. Energetska dozvola[34]

Energetska dozvola[35] se podnosi uz zahtev za izdavanje građevinske dozvole. Energetska dozvola je jedan od uslova za izdavanje građevinske dozvole.

Za dobijanje energetske dozvole neophodno je da budu ispunjeni kriterijumi za izgradnju proizvodnih energetskih objekata predviđeni Zakonom o energetici[36] i Pravilnikom o kriterijumima za izdavanje energetske dozvole, sadržini zahteva i načinu izdavanja energetske dozvole.[37] Energetska dozvola izdaje se za izgradnju elektrane snage 1 MW i više. Energetsku dozvolu izdaje ministarstvo nadležno za energetiku.

Dokaz o pravu svojine, odnosno pravu zakupa zemljišta na kome se planira izgradnja energetskog objekta nije uslov za izdavanje energetske dozvole.[38]

Za elektrane snage do 1 MW, ne pribavlja se energetska dozvola, što znači da se za ove objekte izdaje građevinska dozvola, bez sprovođenja postupka izdavanja energetske dozvole.

Zahtev za izdavanje energetske dozvole[39] sadrži podatke o: 1) podnosiocu zahteva; 2) energetskom objektu; 3) vrednosti investicije; 4) načinu obezbeđenja finansijskih sredstava; 5) predviđenom eksploatacionom veku objekta, kao i načinu sanacije lokacije po završetku eksploatacionog veka objekta; 6) usklađenost sa odgovarajućim planskim dokumentima u skladu sa zakonom kojim se uređuju uslovi i način uređenja prostora, uređivanje i korišćenje građevinskog zemljišta i izgradnja objekata; 7) roku završetka gradnje energetskog objekta. Ukoliko se izgradnja objekta planira na eksploatacionom polju, potrebno je dostaviti i saglasnost ministra nadležnog za poslove geologije i rudarstva.

Pravilnikom o energetskoj dozvoli uređen je Obrazac zahteva za izdavanje energetske dozvole za izgradnju energetskog objekta za proizvodnju električne energije: Obrazac O-1 - Zahtev za izdavanje - produženje roka važenja energetske dozvole za izgradnju energetskog

34 Pored energetske dozvole, Zakonom o energetici je predviđena procedura sprovođenja javnog tendera. Ova procedura se sprovodi u slučaju da se putem izdavanja energetskih dozvola ne mogu obezbediti novi proizvodni kapaciteti ili kada preduzete mere energetske efikasnosti, nisu dovoljne za obezbeđivanje sigurnog i redovnog snabdevanja električnom energijom. O sprovođenju javnog tendera odlučuje Vlada, na predlog ministarstva nadležnog za poslove energetike.

35 U Zakonu o energetici iz 2004 .godine bilo je izričito propisano da se energetska dozvola izdaje u skladu sa Strategijom razvoja energetike Republike Srbije i sa Programom ostvarivanja ove strategije.

36 Za izdavanje energetske dozvole moraju se ispuniti uslovi koji se odnose na: 1) pouzdan i siguran rad energetskog sistema; 2) uslove za određivanje lokacije i korišćenja zemljišta; 3) mogućnost priključenja objekta na postojeći energetski sistem; 4) energetsku efikasnost; 5) uslove korišćenja primarnih izvora energije; 6) zaštitu na radu i bezbednost ljudi i imovine; 7) zaštitu životne sredine; 8) ekonomsko-finansijsku sposobnost podnosioca zahteva da realizuje izgradnju energetskog objekta; 9) doprinos kapaciteta za proizvodnju električne energije u ostvarivanju ukupnog udela energije iz obnovljivih izvora energije u bruto finalnoj potrošnji energije u skladu sa Nacionalnim akcionim planom; 10) doprinos kapaciteta za proizvodnju električne energije smanjenju emisija- član 33. Zakona o energetici.

37 Kriterijumi za izgradnju proizvodnih energetskih objekata u Novom Zakonu o energetici su nešto širi nego oni propisani Pravilnikom o kriterijumima za izdavanje energetske dozvole, sadržini zahteva i načinu izdavanja energetske dozvole. Zakon propisuje da su kriterijumi sledeći: 1) nenarušavanje pouzdanog i sigurnog rada energetskog sistema; 2) određenost lokacije i načina korišćenja zemljišta; 3) energetski efikasan rad; 4) uslovi korišćenja primarnih izvora energije; 5) zaštita na radu i bezbednost ljudi i imovine; 6) zaštita životne sredine; 7) finansijska sposobnost podnosioca zahteva da realizuje izgradnju objekta; 8) doprinos kapaciteta za proizvodnju električne energije u ostvarivanju ukupnog udela energije iz obnovljivih izvora energije u bruto finalnoj potrošnji energije u skladu sa Nacionalnim akcionim planom; 9) doprinos kapaciteta smanjenju emisija.

38 Član 33. stav 2. Zakona o energetici.

39 Član 34. Zakona o energetici.

objekta za proizvodnju električne energije snage 1 MW i više, objekta za proizvodnju električne energije snage do 1 MW koji kao primarni energetski resurs koriste vodu i objekta za kombinovanu proizvodnju električne i toplotne energije u termoelektranama - toplanama električne snage 1 MW i više i ukupne toplotne snage 1 MW i više.

U obrascima Zahteva za izdavanje energetske dozvole za izgradnju elektrane O-1 potrebno je navesti sledeće podatke: 1) opšte podatke o podnosiocu zahteva (naziv, adresa, država, matični broj podnosioca, poreski identifikacioni broj, pravna forma podnosioca zahteva, podaci o zastupniku, podaci o kontakt osobi); 2) osnovne podatke o objektu (naziv objekta, lokacija objekta, opština, prostorne koordinate proizvodnog objekta, tehnički podaci o energetskom objektu, osnovno i rezervno gorivo); 3) vrednost investicije; 4) ekonomsko-finansijska sposobnost investitora za realizaciju izgradnje energetskog objekta (položeni depozit ili prethodno uložena sredstva za izgradnju ovog objekta); 5) predviđeni radni vek objekta 6) prilozi uz zahtev: 6.1) dokazi za pravno i fizičko lice, 6.2) informacija o lokaciji ili lokacijski uslovi, 6.3) overena izjava odgovornog projektanta o primeni tehničkih propisa, 6.4) potvrda o uplati depozita ili overen dokument kojim se dokazuje ulaganje sredstava u izgradnju energetskog objekta, 6.5) mišljenje operatora sistema o uslovima i mogućnostima priključenja energetskog objekta na energetski sistem, 6.6) prethodna studija opravdanosti sa generalnim projektom/studija opravdanosti sa idejnim projektom, 6.7) izveštaj revizione komisije - ukoliko je potreban.

Obrasci zahteva za izdavanje energetske dozvole za izgradnju elektrane od 1 do 10 MW i elektrane nazivne snage preko 10 MW su skoro identični, samo što je Obrazac koji se odnosi na izdavanje energetske dozvole za izgradnju elektrane nazivne snage preko 10 MW razvijeniji u pogledu davanja osnovnih podataka o objektu i definisanja učešća energetskog objekta kod sistemskih usluga. Kod ovog objekta je podnosilac zahteva obavezan da predloži eventualne mogućnosti učešća u sistemskim uslugama u pogledu regulacije aktivne snage, u pogledu regulacije reaktivne snage i mogućnost učešća u primarnoj, sekundarnoj i tercijarnoj regulaciji.

Uz zahtev za izdavanje energetske dozvole, investitor podnosi: 1) za pravno lice, odnosno preduzetnika: izvod o registrovanim podacima (poslovno ime, pravna forma, sedište, delatnost, poreski identifikacioni broj, matični broj); 2) za fizičko lice: fotokopija lične karte, uverenje o državljanstvu i fotokopija pasoša, ako je podnosilac strani državljanin; 3) informaciju o lokaciji ili lokacijske uslove;[40] 4) overenu izjavu odgovornog projektanta o primeni tehničkih propisa u pogledu građenja objekta, energetske efikasnosti, mogućnosti priključenja objekta na postojeći energetski sistem, protivpožarne zaštite, zaštite na radu i bezbednosti ljudi i imovine, zaštite životne sredine i dr. koji su predviđeni Pravilnikom o energetskoj dozvoli, ako tehnička dokumentacija (prethodna studija opravdanosti sa generalnim projektom ili studija opravdanosti sa idejnim projektom i izveštaj revizione komisije) ne podleže reviziji u smislu zakona kojim se uređuje planiranje i izgradnja objekta; 5) potvrdu o uplati depozita u visini od 0,5% od dinarske vrednosti investicije bez obračunatog poreza na dodatu vrednost ili overen dokument kojim se dokazuje ulaganje sredstava u izgradnju energetskog objekta u visini navedenog novčanog depozita; 6) mišljenje operatora sistema o uslovima i mogućnostima priključenja energetskog objekta na energetski sistem.

Energetska dozvola se izdaje rešenjem u roku od trideset dana od dana podnošenja zahteva. Na rešenje o izdavanju energetske dozvole nezadovoljna stranka može u roku od petnaest dana od dana prijema rešenja, podneti žalbu Vladi. Ukoliko je izdavalac rešenja jedinica lokalne samouprave, žalba se podnosi ministarstvu nadležnom za poslove energetike.

Energetska dozvola se izdaje na period od tri godine od dana njene pravosnažnosti i može se produžiti na zahtev imaoca, najduže za još jednu godinu, podnošenjem zahteva za produženje najkasnije 30 dana pre isteka roka važenja energetske dozvole. Rok važenja energetske dozvole će se produžiti ukoliko su ispunjeni propisani uslovi.[41]

Investitor može pokrenuti novi postupak za izdavanje energetske dozvole samo ukoliko je prethodno iskoristio mogućnost produženja roka važenja izdate energetske dozvole.

O izdatim energetskim dozvolama i energetskim dozvolama koje su prestale da važe vodi se registar. Registri se objavljuju na internet stranici ministarstva nadležnog za poslove energetike i ažuriraju se na svaka tri meseca.

Energetska dozvola nije prenosiva.

Energetska dozvola nije potrebna za izgradnju energetskih objekata koji se grade u skladu sa zakonom kojim se uređuje javno-privatno partnerstvo i koncesije.

40 Uz informaciju o lokaciji ili lokacijske uslove podnosi se prethodna studija opravdanosti sa generalnim projektom ili studija opravdanosti sa idejnim projektom u skladu sa Zakonom o planiranju i izgradnji i izveštaj revizione komisije, ako generalni projekat, odnosno idejni projekat podleže reviziji u smislu Zakona o planiranju i izgradnji.

41 Uslovi za produženje energetske dozvole su: 1) da je podnosilac zahteva dostavio dokaz o pribavljenoj dokumentaciji potrebnoj za izgradnju energetskog objekta, odnosno da je pokrenuo odgovarajući postupak pred nadležnim organima za pribavljanje dokumentacije; i 2) da je podnosilac zahteva dostavio dokaz da je preduzeo sve mere pred nadležnim organima u skladu sa zakonom radi pribavljanja dokumentacije.

2.1.2.1. Mišljenje operatora sistema o uslovima i mogućnostima priključenja energetskog objekta na energetski sistem

Zakonom o energetici, Uredbom o uslovima isporuke i snabdevanja električnom energijom, Pravilima o radu distributivnog sistema, Pravilima o radu prenosnog sistema utvrđena je procedura za priključenje objekata proizvođača na elektroenergetsku mrežu. Ni ovom uredbom, ni ovim pravilima, ali ni drugim propisom nije regulisan postupak davanja mišljenja energetskog subjekta za prenos, odnosno distribuciju električne energije u postupku izdavanja energetske dozvole. S obzirom na navedenu činjenicu, ovaj postupak nema posebnu formu, ali su operatori sistema razvili odgovarajuće procedure[42,43] u okviru kojih je definisan postupak podnošenja zahteva za izdavanje mišljenja, potrebna dokumentacija, cenovnik, sadržina akta o mišljenju i rok važnosti. Na akt o mišljenju se ne može uložiti žalba. Zahtev za priključenje na elektroenergetsku mrežu obrađen je u tački 3. ovog Vodiča.

Operator prenosnog sistema u Republici Srbiji je JP „Elektromreža Srbije" (JP EMS)[44], a operator distributivnog sistema u Republici Srbiji je „EPS Distribucija" d.o.o. Beograd.[45]

2.1.3. Uslovi za priključenje[46]

Uslovima za priključenje se definiše mogućnost priključenja objekta proizvođača na elektroenergetsku mrežu, odnosno definišu se elektroenergetski i tehnički uslovi potrebni za izradu idejnog, odnosno projekta za građevinsku dozvolu i projekta za izvođenje, kao i tehnički, projektni i pogonski standardi koje treba da ispune operator prenosnog/distributivnog sistema i objekti korisnika koji se priključuju na prenosni/distributivni sistem.

Za razliku od drugih objekata, za objekat za proizvodnju električne energije uslovi za priključenje se ne pribavljaju u objedinjenoj proceduri.[47] Pored navedene Procedure za priključenje objekta na prenosni sistem, ova oblast je uređena i Pravilima o radu operatora prenosnog, odnosno distributivnog sistema, Uredbom o uslovima isporuke i snabdevanja električnom energijom i internim aktima operatora prenosnog, odnosno distributivnog sistema.

Kada se radi o priključenju na prenosni sistem, postupak počinje podnošenjem zahteva za izradu Studije priključenja objekta na prenosni sistem, koji se podnosi operatoru prenosnog sistema. Obrazac zahteva izrađuje operator prenosnog sistema i čini ga dostupnim na svom sajtu. Međusobni odnosi podnosioca zahteva i operatora prenosnog sistema regulišu se Ugovorom o izradi Studije priključenja.

42 JP EMS, koji je operator prenosnog sistema električne energije, usvojio je Proceduru za priključenje objekata na prenosni sistem, shodno članu 117. stav 3 i članu 39. stav 1. Zakona o energetici, na koju je Agencija za energetiku dala saglasnost, 23. decembra 2015. godine. - www.ems.rs; www.aers.rs. Prema ovoj Proceduri operator prenosnog sistema daje Mišljenje o uslovima i mogućnostima priključenja na prenosni sistem, u okviru izrade Studije priključenja objekta na prenosni sistem.

43 Uputstvo za priključenje objekata na prenosni sistem, januar 2016. godine – www.ems.rs.

44 www.ems.rs.

45 http://www.epsdistribucija.rs.

46 Ovde je potrebno navesti da se shodno članu 118. Zakona o energetici priključenje elektrane na prenosni sistem vrši na način da je operator prenosnog sistema investitor ovog priključka. Takođe, shodno članu 140. stav 6. Zakona o energetici priključenje na distributivni elektroenergetski sistem objekta koji je u funkciji proizvodnje električne energije ne vrši se u objedinjenoj proceduri. Ako postoji potreba da se objekat za proizvodnju električne energije priključi kao kupac na (distributivni) elektroenergetski sistem, tada se pribavljanje uslova za priključenje vrši kroz objedinjenu proceduru.

47 Član 8b. stav 10. Zakona o planiranju i izgradnji i član 117-120. i 140. stav 6. Zakona o energetici.

Deo Studije koji se izrađuje za sve proizvođače sadrži, između ostalog, i: 1) tehničke uslove za izradu planske i urbanističke dokumentacije; 2) mišljenje operatora prenosnog sistema o uslovima i mogućnostima priključenja na prenosni sistem i 3) projektne zadatke za priključak na prenosni sistem. Vremenski rok za izradu ovog dela Studije je 90 dana od datuma avansne uplate za njenu izradu.

Ukoliko je podnosilac zahteva proizvođač sa posebnim karakteristikama obavezno je da se izvrši i provera kvaliteta električne energije, analiza dinamičkim prelaznih procesa, provera usaglašenosti objekata za Pravilima o radu prenosnog sistema.

Rok za izradu Studije priključenja objekta proizvođača na prenosni sistem je 180 dana od datuma registrovane prve uplate prema dinamici plaćanja iz Ugovora o izradi Studije priključenja. Troškove izrade Studije plaća podnosilac zahteva, prema troškovniku operatora prenosnog sistema.

Proces pribavljanja i izrade dokumentacije za gradnju priključka na prenosni sistem pokreće proizvođač podnošenjem zahteva za zaključivanje Ugovora o izradi planske i tehničke dokumentacije i pribavljanju potrebnih dozvola za izgradnju priključka. Zahtev je dostupan na sajtu operatora prenosnog sistema - JP EMS. Ovaj proces počinje tek pošto je završen deo Studije koji se izrađuje za sve proizvođače. Prilikom zaključivanja navedenog Ugovora, proizvođač električne energije se opredeljuje za jednu od mogućnosti predviđenih Zakonom o energetici, a to je: 1) da JP EMS kao investitor izvrši izgradnju priključka o trošku proizvođača ili 2) da JP EMS kao investitor ovlašćuje proizvođača da u njegovo ime, a o svom trošku izgradi priključak, pri čemu proizvođač upravlja projektom izgradnje priključka uz kontrolu JP EMS-a.

Kada se radi o priključenju na distributivni sistem, postupak počinje podnošenjem zahteva za izdavanje uslova za priključenje, koji se podnosi operatoru distributivnog sistema. Obrazac zahteva izrađuje operator distributivnog sistema i čini ga dostupnim u svojim sedištima. U obrascu zahteva za izdavanje uslova za priključenje propisana je i potrebna dokumentacija koja se prilaže uz zahtev. Tehničkim izveštajem se, na osnovu izvršene analize, utvrđuje da li postoje elektroenergetski i tehnički uslovi za eventualno buduće priključenje objekta prema podnetom zahtevu. Na osnovu tehničkog izveštaja energetski subjekt za distribuciju električne energije izdaje akt o uslovima za priključenje. Kroz uslove za priključenje je definisan njihov rok važnosti. Na akt o uslovima za priključenje ne može se uložiti žalba (akt o uslovima za priključenje ne sadrži obrazloženje i uputstvo o pravnom sredstvu). Akt o uslovima za priključenje se izdaje u roku propisanom zakonom[48]. Energetski subjekt izdaje uslove za priključenje uz nadoknadu stvarnih troškova.

2.1.4. Lokacijski uslovi[49]

Zakonom o planiranju i izgradnji propisano je da su lokacijski uslovi javna isprava koja sadrži podatke o mogućnostima i ograničenjima gradnje na katastarskoj parceli koja ispunjava uslove za građevinsku parcelu, a sadrži sve uslove za izradu tehničke dokumentacije neophodne za izdavanje građevinske dozvole.

Lokacijske uslove za izgradnju solarnih elektrane snage 10 MW i više izdaje ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine ukoliko se elektrana nalazi u celini na teritoriji autonomne pokrajine. Za elektrane snage do 10 MW,

48 Rok za izdavanje uslova za priključenje je 30 dana, više o ovome u fusnoti br. 21. ovog Vodiča.

49 U vezi sa pribavljanjem dokumentacije neophodne za izdavanje lokacijskih uslova za elektrane postoje slučajevi preklapanja potrebne dokumentacije (o pravu na korišćenje zemljišta, tehnička dokumentacija,...) za izdavanje pojedinih akata.

lokacijske uslove izdaje nadležni organ jedinice lokalne samouprave na čijoj se teritoriji nalazi. Lokacijski uslovi se pribavljaju u objedinjenoj proceduri.

2.1.4.1. Postupak izdavanja lokacijskih uslova

Dokumentacija neophodna za dobijanje lokacijskih uslova za izgradnju solarne elektrane je utvrđena Zakonom o planiranju i izgradnji, Uredbom o lokacijskim uslovima[50] i Pravilnikom o postupku sprovođenja objedinjene procedure.[51] Kao obavezan prilog Zahtevu za dobijanje lokacijskih uslova podnosi se: 1) idejno rešenje budućeg objekta, odnosno dela objekta (skica, crtež, grafički prikaz i sl.), izrađeno i opremljeno prilozima u skladu sa pravilnikom kojim se uređuje sadržina tehničke dokumentacije[52,53] i 2) dokaz o plaćenoj administrativnoj taksi za podnošenje zahteva.[54]

Zahtev za dobijanje lokacijskih uslova obavezno sadrži: 1) podatke o lokaciji (adresa i naziv katastarske opštine i brojevi parcela, kao i njihova površina); 2) podatke o objektu za čije građenje se traže uslovi (izgradnja i namena objekta prema Pravilniku o klasifikaciji objekata[55] –(„elektrane"), kategorija („G"), klasifikacioni broj („230201") i bruto razvijena građevinska površina); 3) podatke o postojećim objektima na parceli; 4) izjave u vezi sa troškovima pribavljanja lokacijskih uslova i dostavom; 5) spisak priloga i prilozi; 6) podatke o podnosiocu zahteva.

Ako planski dokument, odnosno separat, ne sadrži mogućnosti, ograničenja i uslove za izgradnju objekata, odnosno sve uslove za priključenje na komunalnu, saobraćajnu i ostalu infrastrukturu, nadležni organ te uslove pribavlja po službenoj dužnosti, o trošku podnosioca zahteva uz naknadu stvarnih troškova izdavanja. Imaoci javnih ovlašćenja dužni su da te uslove po zahtevu nadležnog organa dostave u roku od 15 dana od dana prijema zahteva.

Nadležni organ je dužan da u roku od 5 radnih dana od dana pribavljanja svih potrebnih uslova i drugih podataka od imaoca javnih ovlašćenja izda lokacijske uslove.

50 Uredba o lokacijskim uslovima („Sl. glasnik RS" br. 35/15).

51 Razmena podnesaka, akata i dokumentacije u objedinjenoj proceduri između podnosioca zahteva i nadležnog organa obavlja se elektronskim putem. Sva akta koja donose nadležni organi i imaoci javnih ovlašćenja u objedinjenoj proceduri i/ili radi upotrebe u toj proceduri, kao i dokumenti koje podnosilac zahteva, nadležni organ i imaoci javnih ovlašćenja dostavljaju u objedinjenoj proceduri, uključujući i tehničku dokumentaciju, dostavljaju se u formi elektronskog dokumenta u *dwg, dwf* ili *pdf* formatu.

52 Pravilnik o sadržini, načinu i postupku izrade i način vršenja kontrole tehničke dokumentacije prema klasi i nameni objekata („Sl. glasnik RS" br. 23/15).

53 Ukoliko solarna elektrana utiče na vodni režim, ova dokumentacija se sačinjava u skladu sa Uputstvom o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju, http://www.mgsi.gov.rs/cir/dokumenti/uputstvo-o-nachinu-postupanja-nadlezhnih-organa-i-imalaca-javnih-ovlashtshenja-koji-0

54 Ovde je potrebno ukazati da je Uputstvom o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju pojašnjeno pravilo postupanja u pogledu pribavljanja vodnih uslova, vodne saglasnosti i vodne dozvole u svim fazama objedinjene procedure, pa tako i dela u pogledu izdavanja lokacijskih uslova, ukoliko sama solarna elektrana utiče na vodni režim.

55 Pravilnik o klasifikaciji objekata („Sl. glasnik RS" br. 22/15).

Lokacijski uslovi sadrže sve urbanističke, tehničke i druge uslove i podatke potrebne za izradu idejnog, odnosno projekta za građevinsku dozvolu i projekta za izvođenje radova, kao i podatke o: 1) broju i površini katastarske parcele, osim za linijske infrastrukturne objekte i antenske stubove; 2) nazivu planskog dokumenta, odnosno planskom dokumentu i urbanističkom projektu na osnovu kojeg se izdaju lokacijski uslovi i pravila građenja za zonu ili celinu u kojoj se nalazi predmetna parcela; 3) uslove za priključenje na komunalnu, saobraćajnu i drugu infrastrukturu; 4) podatke o postojećim objektima na toj parceli koje je potrebno ukloniti pre građenja; 5) druge uslove u skladu sa posebnim zakonom.

Na izdate lokacijske uslove može se podneti prigovor nadležnom opštinskom, odnosno gradskom veću, u roku od tri dana od dana dostavljanja lokacijskih uslova, a ako je lokacijske uslove izdalo ministarstvo nadležno za poslove građevinarstva ili nadležni organ autonomne pokrajine, prigovor se izjavljuje Vladi, preko tog organa koji je izdao lokacijske uslove.

Lokacijski uslovi važe 12 meseci od dana izdavanja ili do isteka važenja građevinske dozvole izdate u skladu sa tim uslovima, za katastarsku parcelu za koju je podnet zahtev.

2.1.4.2. Formiranje građevinske parcele[56]

Građevinska parcela jeste deo građevinskog zemljišta, sa pristupom javnoj saobraćajnoj površini, koja je izgrađena ili planom predviđena za izgradnju.

Za građenje, odnosno postavljanje infrastrukturnih, elektroenergetskih i elektronskih objekata ili uređaja, može se formirati građevinska parcela manje ili veće površine od površine predviđene planskim dokumentom za tu zonu, pod uslovom da postoji pristup objektu, odnosno uređajima, radi održavanja i otklanjanja kvarova ili havarije. Kao dokaz o rešenom pristupu javnoj saobraćajnoj površini priznaje se i ugovor o uspostavljanju prava službenosti prolaza sa vlasnikom poslužnog dobra, odnosno saglasnost vlasnika poslužnog dobra.

Za građenje solarne elektrane, građevinska parcela predstavlja zemljišni pojas nepotpune eksproprijacije dela katastarskih parcela kroz koje se prostire objekat i pojedinačnih parcela na kojima se nalaze pripadajući nadzemni objekti.

Ukoliko je potrebno, pre podnošenja zahteva za izdavanje lokacijskih uslova radi se Projekat parcelacije/preparcelacije, tj. formiranja građevinske parcele.[57] Projekat preparcelacije podrazumeva projekat obrazovanja jedne ili više građevinskih parcela na većem broju katastarskih parcela, dok projekat parcelacije podrazumeva projekat obrazovanja većeg broja građevinskih parcela na jednoj katastarskoj parceli.

56 Odredbe Zakona o planiranju i izgradnji, u pogledu formiranja građevinske parcele za izgradnju elektranu, su složene. U članu 69. stav 1. ovog zakona, propisano je da se za građenje elektrane može formirati građevinska parcela koja odstupa od površine ili položaja predviđenih planskim dokumentom za tu zonu, pod uslovom da postoji pristup objektu, odnosno uređajima, radi održavanja i otklanjanja kvarova ili havarije. Kao dokaz o rešenom pristupu javnoj saobraćajnoj površini priznaje se i ugovor o uspostavljanju prava službenosti prolaza sa vlasnikom poslužnog dobra, odnosno saglasnost vlasnika poslužnog dobra. Ovi objekti mogu se graditi i na poljoprivrednom, odnosno šumskom zemljištu, uz prethodno pribavljanu saglasnost ministarstva nadležnog za poslove poljoprivrede, odnosno šumarstva. Za potrebe izgradnje navedenih objekata na poljoprivrednom zemljištu mogu se primenjivati odredbe Zakona o planiranju i izgradnji koje se odnose na preparcelaciju, parcelaciju i ispravku granica susednih parcela, kao i odredbe o odstupanju od površine ili položaja predviđenih planskim dokumentom.

57 Pravilnik o opštim pravilima za parcelaciju, regulaciju i izgradnju („Sl. glasnik RS" br. 22/15).

Projekat parcelacije, odnosno preparcelacije, izrađuje ovlašćeno privredno društvo, odnosno drugo pravno lice ili preduzetnik, koje je upisano u odgovarajući registar. Izradom projekta parcelacije rukovodi odgovorni urbanista arhitektonske struke. Navedeni projekat obavezno sadrži i Projekat geodetskog obeležavanja.

Projekat parcelacije, odnosno preparcelacije se predaje organu nadležnom za poslove urbanizma jedinice lokalne samouprave na potvrdu. Ako je projekat u skladu sa važećim planskim dokumentom, nadležni organ potvrđuje projekat u roku od 10 dana, a ako nije - o tome obaveštava podnosioca projekta. Prigovor na navedeno obaveštenje može se podneti opštinskom, odnosno gradskom veću u roku od 3 dana od dana dostavljanja.

Dalje se, organu nadležnom za poslove državnog premera i katastra (RGZ – Republički geodetski zavod), dostavlja Zahtev za provođenje parcelacije, odnosno preparcelacije.

Uz Zahtev za provođenje preparcelacije/parcelacije se podnosi: 1) dokaz o rešenim imovinsko-pravnim odnosima za sve katastarske parcele i 2) projekat preparcelacije, odnosno parcelacije, potvrđen od strane organa nadležnog za poslove urbanizma, jedinice lokalne samouprave, a čiji sastavni deo je i Projekat geodetskog obeležavanja. Po ovom zahtevu, organ nadležan za poslove državnog premera i katastra, donosi rešenje o formiranju katastarske/ih parcele/a. Na ovo rešenje može se izjaviti žalba u roku od 15 dana od dana dostavljanja rešenja.

Za dobijanje lokacijskih uslova za solarne elektrane može se primeniti odredba Zakona o planiranju i izgradnji kojim se regulišu posebni slučajevi formiranja građevinske parcele. Za građenje elektroenergetskih objekata, može se formirati građevinska parcela manje površine od površine predviđene planskim dokumentom, pod uslovom da postoji pristup objektu, odnosno uređajima, radi održavanja i otklanjanja kvarova ili havarije. Kao rešen pristup javnoj saobraćajnoj površini priznaje se i ugovor o pravu službenosti prolaza sa vlasnikom poslužnog dobra.

2.1.4.3. Vodna akta[58][59]

Zakon o vodama razlikuje opšte i posebno korišćenje voda. Vodni uslovi izdaju se u postupku pripreme tehničke dokumentacije za izgradnju novih objekata koji mogu trajno ili privremeno uticati na promene u vodnom režimu, odnosno ugroziti ciljeve životne sredine. Pravo na posebno korišćenje voda, stiče se vodnom dozvolom. Posebno korišćenje voda može se vršiti po osnovu koncesije i obavljati u skladu sa ugovorom kojim se uređuje koncesija.

Ovim zakonom se definišu sledeća vodna akta od značaja za izgradnju objekta: 1) vodni uslovi, 2) vodna saglasnost i 3) vodna dozvola. Vodna akta donosi ministarstvo nadležno za vodoprivredu. Ukoliko se objekat nalazi na teritoriji autonomne pokrajine onda ova akta donosi

58 Izdavanje vodnih uslova, vodne saglasnosti i vodne dozvole regulisano je Zakonom o vodama i Pravilnikom o sadržini i obrascu zahteva za izdavanje vodnih akata i sadržini mišljenja u postupku izdavanja vodnih akata („Sl. glasnik RS" br. 74/10, 116/12 i 58/14). U uslovima primene objedinjene procedure način i rokovi izdavanja vodnih akata su razrađeni Uputstvom o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju.

59 Za izgradnju solarnih elektrane nije potrebno pribavljanje vodnih akata, ukoliko se ne radi o radovima ili objektu, koji zbog svog položaja može da privremeno, povremeno ili trajno da prouzrokuju promene u vodnom režimu ili na koje može uticati vodni režim.

nadležni organ autonomne pokrajine (Pokrajinski sekretarijat za poljoprivredu, šumarstvo i vodoprivredu u Novom Sadu), a ukoliko se objekat nalazi na teritoriji grada Beograda, ova akta donosi nadležni organ grada Beograda (Uprava za vode). Vodna akta se izdaju u roku od dva meseca od dana podnošenja zahteva. Protiv vodnog akta donetog od strane nadležnog organa autonomne pokrajine, odnosno grada Beograda može se izjaviti žalba ministarstvu nadležnom za vodoprivredu, u roku od 15 dana. Protiv rešenja ministarstva nadležnog za vodoprivredu može se voditi upravni spor.

U uslovima objedinjene procedure izdavanja lokacijskih uslova i građevinske dozvole, rokovi izdavanja vodnih akata su kraći, procedura za podnosioca zahteva pojednostavljena, a u slučaju da je podnosilac zahteva nezadovoljan, nešto drugačija, nego procedura koja se primenjuje u postupcima van objedinjene procedure.[60]

Zakonom o vodama je propisano da je za postupak pripreme tehničke dokumentacije za izgradnju novih i rekonstrukciju postojećih objekata i za izvođenje drugih radova koji mogu uticati na promene u vodnom režimu investitor dužan da pribavi vodne uslove (određuju se tehnički i drugi zahtevi koji moraju biti ispunjeni). U tekstu Uputstva o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju, Prilog broj 1: spisak objekata za koje je potrebno ishodovati vodne uslove. Solarne elektrane bi se mogle naći u okviru drugih objekata i radova, koji mogu privremeno, povremeno ili trajno da prouzrokuju promene u vodnom režimu ili na koje može uticati vodni režim, a koji su predviđeni planskim dokumentom ili separatom.

Pre izdavanja vodnih uslova (a koji su element lokacijskih uslova, i neophodni su za izradu projektne dokumentacije – projekta za građevinsku dozvolu), potrebno je pribaviti Mišljenje republičke organizacije nadležne za hidrometeorološke poslove (Republički hidrometeorološki zavod - RHMZ) i Mišljenje javnog vodoprivrednog preduzeća (JVP Srbijavode – za teritoriju Republike Srbije osim Autonomne pokrajine Vojvodine, JVP Vode Vojvodine – za teritoriju Autonomne pokrajine Vojvodine, odnosno JVP „Beogradvode" u Beogradu, za objekte i radove na teritoriji Grada Beograda).

Kako se vodni uslovi pribavljaju u objedinjenoj proceduri, prilikom ishodovanja lokacijskih uslova, zajedno sa dokumentacijom koja se predaje nadležnom organu za izdavanje lokacijskih uslova, potrebno je priložiti hidrološku studiju koju izrađuje investitor[61] i ranije izdata vodna akta u slučaju izgradnje novog objekta u sastavu postojećeg ili njegove rekonstrukcije.

Dobijeno Rešenje o izdavanju vodnih uslova je jedan od elemenata lokacijskih uslova.[62] Na osnovu ovog rešenja radi se projekat za građevinsku dozvolu.

Po dobijanju lokacijskih uslova ulazi se u izradu projektne dokumentacije – idejnog, odnosno projekta za građevinsku dozvolu za solarnu elektranu.

Prilikom pribavljanja građevinske dozvole u objedinjenoj proceduri, vodnu saglasnost nije potrebno pribavljati, jer vodna saglasnost[63] na tehničku dokumentaciju nije uslov za

60 Uputstvo o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju.

61 Uputstvo o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju, Prilog broj 2: Spisak objekata za koje je prethodno potrebno izraditi hidrološku studiju radi pribavljanja mišljenja Republičkog hidrometeorološkog zavoda.

62 Izuzetno, shodno članu 118. stav Zakona o vodama, nadležni organ za izdavanje vodnih uslova može zahtevati da podnosilac zahteva pribavi mišljenje ministarstva nadležnog za životnu sredinu i/ili specijalizovane stručne naučne institucije (zavodi, instituti i drugo). Za objekte i radove na teritoriji banjskog mesta podnosilac zahteva je dužan da pribavi mišljenje ministarstva nadležnog za poslove turizma. Ne postoji posebno propisana procedura za dobijanje ovih mišljenja.

63 Vodna saglasnost je vodni akt kojim se utvrđuje da je tehnička dokumentacija za objekte i radove urađena u skladu sa vodnim uslovima. Ipak, investitor može zatražiti vodnu saglasnost od nadležnog organa van objedinjenje procedure, kao kontrolni akt koji mu pruža dodatnu sigurnost u primeni vodnih uslova.

izdavanje građevinske niti izdavanje upotrebne dozvole. Usklađenost tehničke dokumentacije s vodnim uslovima za izdavanje građevinske dozvole proverava i potvrđuje vršilac tehničke kontrole u skladu sa Zakonom o planiranju i izgradnji i podzakonskim aktima donetim na osnovu tog zakona.[64, 65]

Kada je objekat izgrađen, a pre dobijanja upotrebne dozvole, investitor treba da pribavi **vodnu dozvolu**[66], ukoliko je u vodnim uslovima naznačena obaveza njenog pribavljanja. Ishodovanje vodne dozvole se obavlja van objedinjene procedure. Zahtev za izdavanje vodne dozvole podnosi investitor ministarstvu nadležnom za vodoprivredu, odnosno nadležnom organu. Vodna dozvola je potrebna za korišćenje voda i prirodnih i veštačkih vodotoka, jezera i podzemnih voda, za prečišćavanje i ispuštanje voda i drugih materija u prirodne i veštačke vodotoke, jezera, podzemne vode i javnu kanalizaciju, u slučaju povećanja ili smanjenja kapaciteta već postojećeg objekta – za povećanje ili smanjenje količine zahvaćenih i ispuštenih voda, izmenjene prirode i kvaliteta ispuštenih voda, kao i za druge radove kojima se utiče na vodni režim. Ova dozvola se izdaje za period od najduže 15 godina, tako da najkasnije dva meseca pre isteka treba produžiti važnost, ukoliko postoji izdato Rešenje o vodnoj dozvoli. Pravo stečeno na osnovu vodne dozvole ne može se preneti na treće lice bez saglasnosti izdavaoca, a ovo pravo prestaje: istekom roka, odricanjem prava i ne konzumiranjem prava bez opravdanih razloga duže od 2 godine. Zahtev za izdavanje vodne dozvole se podnosi na propisanom obrascu O6.

Zahtev za izdavanje vodne dozvole sadrži: 1) opšte podatke o podnosiocu zahteva; 2) osnovne podatke (administrativni, hidrografski i geodetski podaci) o objektu, odnosno radovima, kao i mesto, datum, potpis i pečat podnosioca zahteva. Pored navedenih elemenata, ovaj zahtev za solarnu elektranu za koju je izdata vodna saglasnost ili vodna dozvola, sadrži: 1) rešenje o izdavanju vodne saglasnosti ili vodne dozvole; 2) izveštaj javnog vodoprivrednog preduzeća o ispunjenosti uslova iz vodnih uslova i vodne saglasnosti za izdavanje vodne dozvole; 3) izveštaj komisije o izvršenom tehničkom pregledu objekta; 4) projekat za građevinsku dozvolu ili projekat izvedenog objekta; 5) izvod iz projekta za građevinsku dozvolu ili projekta izvedenog objekta. Ukoliko je za solarnu elektranu izdata upotrebna dozvola, a nije izdata vodna saglasnost, zahtev za izdavanje vodne dozvole sadrži i: 1) upotrebnu dozvolu; 2) izveštaj javnog vodoprivrednog preduzeća o spremnosti objekta za izdavanje vodne dozvole; 3) projekat za građevinsku dozvolu ili projekat izvedenog objekta; 4) izvod iz projekta za građevinsku dozvolu ili projekta izvedenog objekta.

64 Uputstvo o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju.

65 Iako je Zakonom o vodama predviđeno da je za dobijanje građevinske dozvole potrebno, pored ostalog, ishodovati Vodnu saglasnost na projektnu dokumentaciju, kojom se utvrđuje da je tehnička dokumentacija – projekat za građevinsku dozvolu, urađena u skladu sa vodnim uslovima. Uputstvom o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju, je precizirano postupanje u slučaju objedinjene procedure, tako da funkciju vodne saglasnosti vrši potvrda vršioca tehničke kontrole (u skladu sa Zakonom o planiranju i izgradnji i podzakonskim aktima ovog zakona) da je tehnička dokumentacija usklađena sa vodnim uslovima. Na taj način se znatno pojednostavljuje i ubrzava postupak pribavljanja građevinske dozvole.

66 Vodnom dozvolom, koja se ishoduje kada je objekat izgrađen, utvrđuju se način i uslovi za upotrebu i korišćenje voda i ispuštanje voda. Iako je Uputstvom o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju predviđeno da vodna dozvola nije uslov za izdavanje upotrebne dozvole, preporuka investitorima je da pribave vodnu dozvolu pre građevinske dozvole iz razloga pravne sigurnosti korišćenja elektrane koja ima uticaja na vodni režim.

Za solarne elektrane i radove za koje je izdata vodna saglasnost ili vodna dozvola i objekta za koje je izdata upotrebna dozvola, a nije izdata vodna saglasnost, pored već navedenih elemenata, zahtev za izdavanje vodne dozvole sadrži: 1) rešenje ministarstva nadležnog za poslove zdravlja o određivanju zona sanitarne zaštite izvorišta; 2) rešenje ministarstva nadležnog za poslove geoloških istraživanja o utvrđenim i razvrstanim rezervama podzemnih voda[67]; 3) saglasnost ministarstva nadležnog za poslove turizma za korišćenje voda sa prirodnim lekovitim svojstvom na teritoriji banjskog mesta; 4) ugovor ili drugi dokument da javno komunalno preduzeće vrši uslugu čišćenja objekta za ispuštanje otpadnih voda i uslugu čišćenja čvrstog otpada; 5) izveštaj ovlašćenog pravnog lica o ispitivanju kvaliteta voda (zahvaćenih i ispuštenih) iz prethodnog perioda; 6) potvrda ovlašćenog pravnog lica o ispravnosti objekata za sakupljanje, odvođenje i prečišćavanje otpadnih voda, uključujući i septičke jame; 7) izveštaj ovlašćenog pravnog lica o ispitivanju nivoa i kvaliteta voda u piezometrima, u zoni skladišnih objekata, kao i 8) baždarne tablice izdate od strane ovlašćenog pravnog lica samo za objekte za skladištenje.

Uz navedene priloge, uz zahtev za izdavanje vodne dozvole, dostavlja se i zapisnik vodnog inspektora.

2.1.5. Procena uticaja na životnu sredinu[68]

Procena uticaja na životnu sredinu je veoma značajan elemenat u postupku izgradnje solarne elektrane. U postupku pribavljanja energetske dozvole neophodno je izraditi analizu mogućih uticaja na životnu sredinu sa predlogom mera zaštite životne sredine.

Ukoliko nadležni organ utvrdi za potrebno, kao element za izdavanje građevinske dozvole neophodno je izraditi Studiju o proceni uticaja solarneelektrane na životnu sredinu.[69]

Procena uticaja elektrane na životnu sredinu sa predlogom mera zaštite životne sredine, vrši se prilikom izrade Studije o proceni uticaja elektrane na životnu sredinu. Solarne elektrane se ne nalaze izričito ni na jednoj listi, što znači da za ove objekte u načelu nije potrebna izrada Studije o proceni uticaja elektrane na životnu sredinu. U slučaju da se radi o solarnoj elektrane snage preko 50 MW obavezna je izrada Studije o proceni uticaja na životnu sredinu. Takođe u slučaju da se solarna elektrana gradi u zaštićenom prirodnom dobru i zaštićenoj okolini nepokretnog kulturnog dobra, kao i u drugim područjima posebne namene, može se tražiti Studija o proceni uticaja na životnu sredinu.[70]

67 Zahtev za izdavanje vodne dozvole sadrži i rešenje ministarstva nadležnog za poslove geoloških istraživanja o utvrđenim i razvrstanim rezervama podzemnih voda, ukoliko se za potrebe procesa vrši zahvatanje voda bunarima.

68 Potrebno je napomenuti da je pored procene uticaja konkretnog objekta na životnu sredinu izvršena strateška procena uticaja na životnu sredinu, koja se vrši za planove, programe, osnove i strategije (u daljem tekstu: planovi i programi) u oblasti prostornog i urbanističkog planiranja ili korišćenja zemljišta, poljoprivrede, šumarstva, ribarstva, lovstva, energetike, industrije, saobraćaja, upravljanja otpadom, upravljanja vodama, telekomunikacija, turizma, očuvanja prirodnih staništa i divlje flore i faune, kojima se uspostavlja okvir za odobravanje budućih razvojnih projekata određenih propisima kojima se uređuje procena uticaja na životnu sredinu. - član 5. stav 1. Zakona o strateškoj proceni uticaja na životnu sredinu.

69 Neophodan element za izdavanje građevinske dozvole za elektrane snage od 50 MW ili više je procena uticaja na životnu sredinu izrađena u jasno definisanom formatu – formatu Studije o proceni uticaja elektrane na životnu sredinu.

70 U praksi se pojavljuju slučajevi da kada investitor traži kredit od banke, banka zahteva izradu procene uticaja na životnu sredinu, iako

Zahtev za odlučivanje o potrebi procene uticaja dostavlja se nadležnom organu. Nadležnost organa u postupku utvrđivanja potrebe izrade Studije o proceni uticaja je ista kao i kod utvrđivanja nadležnosti za izdavanje građevinske dozvole.[71]

Zahtev o potrebi procene uticaja podnosi se na propisanom obrascu, u skladu sa Zakonom o proceni uticaja na životnu sredinu i Pravilnikom o sadržini zahteva o potrebi procene uticaja i sadržini zahteva za određivanje obima i sadržaja studije o proceni uticaja na životnu sredinu.

Zahtev o potrebi procene uticaja treba da sadrži[72]: 1) podatke o nosiocu projekta; 2) opis lokacije; 3) opis karakteristika projekta; 4) prikaz glavnih alternativa koje su razmatrane; 5) opis činilaca životne sredine koji mogu biti izloženi uticaju; 6) opis mogućih značajnih štetnih uticaja projekta na životnu sredinu; 7) opis mera predviđenih radi sprečavanja, smanjenja i otklanjanja značajnih štetnih uticaja; 8) druge podatke i informacije na zahtev nadležnog organa. Uz ovaj zahtev potrebno je podneti sledeću dokumentaciju: 1) informacija o lokaciji ili potvrđeni urbanistički projekat (ne stariji od godinu dana); 2) idejno rešenje ili idejni projekat, odnosno izvod iz idejnog projekta; 3) grafički prikaz mikro i makro lokacije; 4) uslovi i saglasnosti drugih nadležnih organa i organizacija pribavljeni u skladu sa posebnim zakonom; 5) dokaz o uplati republičke administrativne takse; 6) druge dokaze na zahtev nadležnog organa.

Nadležni organ o podnesenom zahtevu, a u roku od 10 dana, obaveštava zainteresovane organe i javnost. Zainteresovani moraju podneti svoje mišljenje u roku od 10 dana od dana prijema obaveštenja. Nadležni organ, u daljem roku od 10 dana odlučuje o zahtevu. Ako je odlučeno da je procena uticaja potrebna za solarnu elektranu preko 1 MW, u istoj Odluci se može odrediti i obim i sadržaj studije o proceni uticaja. Ako se utvrdi da procena uticaja nije potrebna, nadležni organ u Odluci može utvrditi minimalne uslove zaštite životne sredine. Odluka se dostavlja nosiocu projekta, zainteresovanim organima i javnosti u roku od 3 dana od dana donošenja odluke.

Nosilac projekta i zainteresovana javnost mogu izjaviti žalbu, a nadležni drugostepeni organ[73] odluku donosi u roku od 30 dana od dana prijema žalbe.

Ako je doneta Odluka po zahtevu o proceni uticaja kojom je odlučeno da je procena uticaja potrebna i ukoliko u istoj Odluci nadležni organ nije odredio obim i sadržaj studije o proceni uticaja, nosilac projekta mora nadležnom organu podneti Zahtev za određivanje obima i sadržaja studije o proceni uticaja i to na propisanom obrascu.

ona nije tražena propisima.

71 Nadležni organ u postupku procene uticaja solarne elektrane snage 10 MW i više je ministarstvo nadležno za životnu sredinu, odnosno nadležni organ autonomne pokrajine ukoliko se elektrana nalazi u celini na teritoriji autonomne pokrajine. Za elektrane snage do 10 MW Studija o proceni uticaja podnosi se nadležnom organu jedinice lokalne samouprave na čijoj se teritoriji nalazi.

72 Obrazac Zahteva o potrebi procene uticaja projekta na životnu sredinu utvrđen je Pravilnikom o sadržini zahteva o potrebi procene uticaja i sadržini zahteva za određivanje obima i sadržaja Studije o proceni uticaja na životnu sredinu.

73 Protiv odluka ministarstva nadležnog za životnu sredinu može se voditi upravni spor.

Navedeni zahtev sadrži: 1) podatke o nosiocu projekta; 2) opis projekta; 3) prikaz glavnih alternativa koje su razmatrane; 4) opis činilaca životne sredine koji mogu biti izloženi uticaju; 5) opis mogućih značajnih štetnih uticaja; 6) opis mera predviđenih radi sprečavanja, smanjenja, i otklanjanja značajnih štetnih uticaja; 7) netehnički rezime podataka od 2) do 6); 8) podatke o mogućim teškoćama na koje je naišao nosilac projekta u prikupljanju podataka i dokumentacije; 9) druge podatke i informacije na zahtev nadležnog organa. Uz navedeni zahtev se mora priložiti sledeća dokumentacija: 1) izvod iz urbanističkog plana ili potvrđeni urbanistički projekat, odnosno akt o urbanističkim uslovima koji nije stariji od godinu dana; 2) idejni projekat, odnosno izvod iz idejnog projekta; 3) grafički prikaz makro i mikro lokacije; 4) uslovi i saglasnosti drugih nadležnih organa i organizacija pribavljenih u skladu sa posebnim zakonom; 5) dokaz o uplati republičke administrativne takse i 6) drugi dokazi na zahtev nadležnog organa.

Nadležni organ o podnesenom zahtevu, a u roku od 10 dana obaveštava zainteresovanu javnost. Zainteresovani moraju podneti svoje mišljenje u roku od 15 dana od dana prijema obaveštenja. Nadležni organ u roku od 10 dana donosi odluku o obimu i sadržaju studije o proceni uticaja. Odluka se dostavlja nosiocu projekta i zainteresovanoj javnosti u roku od 3 dana.

Nosilac projekta i zainteresovana javnost mogu izjaviti žalbu, a nadležni drugostepeni organ odluku donosi u roku od 30 dana od dana prijema žalbe.

Detaljnija procedura za izradu Studije o proceni uticaja solarne elektrane na životnu sredinu regulisana je Zakonom o proceni uticaja na životnu sredinu i podzakonskim aktima ovog zakona[74]. Ovim zakonom je utvrđeno da je konkretna studija o proceni uticaja solarne elektrane na životnu sredinu sastavni deo dokumentacije koja se prilaže uz zahtev za izdavanje građevinske dozvole ili uz prijavu početka izvođenja projekta (izgradnja, izvođenje radova, promena tehnologije, promena delatnosti i druge aktivnosti).

Studija o proceni uticaja obavezno sadrži: 1) podatke o nosiocu projekta; 2) opis lokacije na kojoj se planira realizacija projekta; 3) opis projekta; 4) prikaz razmatranih glavnih alternativa projekta; 5) prikaz stanja životne sredine na lokaciji i bližoj okolini (mikro i makro lokacija); 6) opis mogućih značajnih uticaja projekta na životnu sredinu; 7) procenu uticaja na životnu sredinu u slučaju udesa; 8) opis mera predviđenih radi sprečavanja, smanjenja, i mogućeg otklanjanja svakog značajnijeg štetnog uticaja na životnu sredinu; 9) program praćenja uticaja na životnu sredinu; 10) netehnički kraći prikaz podataka navedenih od 2) do 9); 11) podaci o tehničkim nedostacima ili nepostojanju odgovarajućih stručnih znanja i veština ili nemogućnosti da se pribave odgovarajući podaci. Uz studiju se prilažu i pribavljeni uslovi i saglasnosti drugih nadležnih organa i organizacija. Studija sadrži i osnovne podatke o licima koja su učestvovala u izradi, o odgovornom licu, datumu izrade, potpis i pečat odgovornog lica, kao i pečat ovlašćene organizacije koja je izradila studiju, a registrovana je za izradu ovakve vrste dokumentacije u Agenciji za privredne registre.[75]

74 Podzakonski akti Zakona o proceni uticaja na životnu sredinu merodavni za ovo pitanje su Pravilnik o sadržini zahteva o potrebi procene uticaja i sadržini zahteva za određivanje obima i sadržaja Studije o proceni uticaja na životnu sredinu i Pravilnik o sadržini studije o proceni uticaja na životnu sredinu.

75 Detaljnije propisana sadržina studije nalazi se u Pravilniku o sadržini studije o proceni uticaja na životnu sredinu.

Najkasnije u roku od godinu dana od dana prijema konačne odluke o obimu i sadržaju studije o proceni uticaja, nosilac projekta je dužan da ponese Zahtev za davanje saglasnosti na studiju o proceni uticaja. Uz zahtev se podnosi studija o proceni uticaja (tri primerka u papirnom i jedan u elektronskom obliku) i odluka nadležnog organa iz prethodne faze postupka.

Javni organ obezbeđuje javni uvid, prezentaciju i javnu raspravu o studiji, a o njihovom vremenu i mestu obaveštava zainteresovane u roku od 7 dana. Javna rasprava se može sprovesti najmanje 20 dana od dana obaveštavanja.

Nadležni organ u roku od 10 dana od dana prijema zahteva za dobijanje saglasnosti obrazuje Tehničku komisiju za ocenu studije o proceni uticaja i u roku od 3 dana posle njenog obrazovanja, komisiji se dostavlja studija na ocenu. Po završenom javnom uvidu, nadležni organ u roku od 3 dana dostavlja komisiji Izveštaj sa pregledom mišljenja zainteresovanih strana.

Na predlog Tehničke komisije, nadležni organ može zahtevati od nosioca projekta da u određenom roku izvrši izmene i dopune. Tehnička komisija dužna je da izveštaj sa ocenom Studije o proceni uticaja i predlogom odluke dostavi nadležnom organu u roku od 30 dana od dana prijema dokumentacije od nadležnog organa.

O odluci o davanju saglasnosti na ovu studiju ili o odbijanju zahteva za davanje saglasnosti na studiju o proceni uticaja, nadležni organ je dužan da u roku od 10 dana od dana prijema Izveštaja od Tehničke komisije obavesti zainteresovane strane, posebno o: 1) sadržini odluke; 2) glavnim razlozima na kojima se odluka zasniva; 3) najvažnijim merama koje je nosilac projekta dužan da preduzima radi sprečavanja, smanjenja ili otklanjanja štetnih uticaja. Protiv navedene odluke (nezadovoljni) nosilac projekta i zainteresovana javnost mogu pokrenuti upravni spor.

Zakonom o proceni uticaja na životnu sredinu uređen je i postupak ažuriranja Studije o proceni uticaja na životnu sredinu zbog proteka vremena. Potrebno je ukazati da je važnost Odluke o saglasnosti na Studiju o proceni uticaja dve godine, u kom roku nosilac projekta je dužan da otpočne sa izgradnjom solarne elektrane. Po isteku ovog roka, nadležni organ, može doneti odluku o izradi nove Studije o proceni uticaja ili ažuriranju postojeće. Ova odluka se donosi na osnovu zahteva nosioca projekta. Ista odluka se donosi i u slučaju da nosilac projekta mora da odstupi od dokumentacije na osnovu koje je izrađena studija o proceni uticaja solarne elektrane na životnu sredinu. U poslednjem slučaju zahtev za izdavanje odobrenja na ažuriranu Studiju o proceni uticaja podnosi se pre podnošenja zahteva za izdavanje građevinske dozvole.

Zakonom o zaštiti životne sredine, utvrđeno je da ministarstvo nadležno za životnu sredinu daje prethodnu saglasnost na odobrenje za korišćenje prirodnih resursa ili dobara. Ovom saglasnošću se utvrđuje ispunjenost uslova i mera održivog korišćenja prirodnih resursa, odnosno dobara (vazduh, voda, zemljište, šume, geološki resursi, biljni i životinjski svet) i zaštite životne sredine u toku i posle prestanka obavljanja aktivnosti.[76]

76 Član 15. Zakona o zaštiti životne sredine.

2.1.6. Tehnička dokumentacija[77]

Građenje solarne elektrane vrši se na osnovu građevinske dozvole i tehničke dokumentacije, pod uslovima i na način utvrđen Zakonom o planiranju i izgradnji.

Tehničkadokumentacija je skup projekata koji se izrađuju radi: utvrđivanja koncepcije objekta, razrade uslova, načina izgradnje objekta i za potrebe održavanja objekta. Tehnička dokumentacija se izrađuje na osnovu lokacijskih uslova, koji sadrže sve urbanističke, tehničke i druge uslove i podatke potrebne za izradu idejnog, odnosno projekta za građevinsku dozvolu i projekta za izvođenje.

Tehničku dokumentaciju za izgradnju objekta, po Zakonu o planiranju i izgradnji čine: 1) generalni projekat; 2) idejno rešenje; 3) idejni projekat; 4) projekat za građevinsku dozvolu 5) projekat za izvođenje i 6) projekat izvedenog objekta. Projekat izvedenog objekta spada u tehničku dokumentaciju koja se izrađuje nakon izgradnje solarne elektrane, a za potrebe pribavljanja upotrebne dozvole, korišćenja i održavanja objekta.

Pre početka izrade tehničke dokumentacije za građenje solarne elektrane obavljaju se prethodni radovi na osnovu čijih rezultata se izrađuje prethodna studija opravdanosti i studija opravdanosti.[78] Za građenje solarnih elektrana za koje se na osnovu planskog dokumenta mogu izdati lokacijski uslovi, ne izrađuje se prethodna studija opravdanosti[79] sa generalnim projektom[80]. *Prethodna studija opravdanosti* sadrži Generalni projekat. *Studija opravdanosti* sadrži idejni projekat. Izradu prethodne studije opravdanosti, odnosno studije opravdanosti može obavljati privredno društvo, odnosno drugo pravno lice koje je upisano u odgovarajući registar za obavljanje delatnosti projektovanja i inženjeringa i koje ispunjava uslove u pogledu stručnog kadra.

Prethodni radovi, obuhvataju: 1) istraživanja i izradu analiza i projekata i drugih stručnih materijala; 2) pribavljanje podataka kojima se analiziraju i razrađuju inženjersko-geološki, geotehnički, geodetski, hidrološki, meteorološki, urbanistički, tehnički, tehnološki, ekonomski, energetski, seizmički, vodoprivredni i saobraćajni uslovi, uslovi zaštite od požara i zaštite životne sredine, kao i drugi uslovi od uticaja na gradnju i korišćenje određenog objekta.

Generalni projekat sadrži podatke o: 1) makrolokaciji objekta; 2) opštoj dispoziciji objekta; 3) tehničko-tehnološkoj koncepciji objekta; 4) načinu obezbeđenja infrastrukture; 5) mogućim varijantama prostornih i tehničkih rešenja sa stanovišta uklapanja u prostor; 6) prirodnim uslovima; 7) proceni uticaja na životnu sredinu; 8) inženjersko geološkim-geotehničkim karakteristikama terena sa aspekta utvrđivanja generalne koncepcije i opravdanosti izgradnje objekta; 9) istražnim radovima za izradu idejnog projekta; 10) zaštiti prirodnih i nepokretnih kulturnih dobara; 11) funkcionalnosti i racionalnosti rešenja.

77 Pravilnik o sadržini, načinu i postupku izrade i način vršenja kontrole tehničke dokumentacije prema klasi i nameni objekata („Sl. glasnik RS“ br. 23/15).

78 Potrebno je navesti da je nadležnost za izdavanje upravnih akata za izgradnju konkretne solarne elektrane i korišćenje izgrađenog objekta, shodno Zakonu o planiranju izgradnji, ista za sva sledeća akta: 1) informacije o lokaciji, 2) lokacijskih uslova, 3) građevinske dozvole i 4) upotrebne dozvole.

79 Prethodnom studijom opravdanosti utvrđuje se naročito prostorna, ekološka, društvena, finansijska, tržišna i ekonomska opravdanost investicije za varijantna rešenja definisana generalnim projektom, na osnovu kojih se donosi planski dokument, kao i odluka o opravdanosti ulaganja u prethodne radove za idejni projekat i izradu studije opravdanosti.

80 Studijom opravdanosti određuje se naročito prostorna, ekološka, društvena, finansijska, tržišna i ekonomska opravdanost investicije za izabrano rešenje, razrađeno idejnim projektom, na osnovu koje se donosi odluka o opravdanosti ulaganja, za projekte koji se finansiraju sredstvima iz budžeta.

Idejno rešenje se izrađuje za potrebe pribavljanja lokacijskih uslova, a može biti deo urbanističkog projekta za potrebe urbanističko-arhitektonske razrade lokacije.

Idejno rešenje za izgradnju solarne elektrane treba da sadrži sledeće podatke: 1) naziv, vrstu i namenu objekta; 2) da li se objekat priključuje na javni vodovod i javnu kanalizaciju; 3) opis načina zahvata vode sa planiranim količinama vode, ukoliko se voda zahvata iz površinskih ili podzemnih voda; 4) opis planiranog načina ispuštanja otpadnih voda, ukoliko industrijski ili drugi objekat otpadne vode ispušta u površinske vode ili podzemne vode; 5) opis tehnološkog procesa sa procenom kvaliteta i kvantiteta efluenta; 6) opis planiranih radova koji se odnose na uređenje vodotoka i zaštitu od štetnog dejstva voda, uređenje i korišćenje voda i zaštitu voda od zagađivanja; 7) o kvalitetu zahvaćene vode (rezultati ispitivanja vode), u slučaju kada se voda zahvata iz površinskih ili podzemnih voda kao i podatak o načinu vodosnabdevanja (vodotok, kanal, bunar ili javna vodovodna mreža) i lokaciji vodozahvata. Ukoliko nema tehničkih mogućnosti za snabdevanje vodom iz javne vodovodne mreže ili je za potrebe eksploatacije objekta neophodno izgraditi bunar, navesti njegovu namenu (npr. za protivpožarne potrebe, za navodnjavanje, za ribnjake i dr.), potrebnu količinu vode iz bunara i sl; 8) podatke o načinu prikupljanja odvođenja, prečišćavanja (primarno, sekundarno) i ispuštanja svih otpadnih voda sa lokacije predmetnog objekta (tehnoloških sanitarno-fekalnih, atmosferskih) i o recipijentu istih (vodotok, laguna, septička jama, javna kanalizaciona mreža i sl.), vrsti i načinu odlaganja otpada koji može uticati na vodni režim (kvantitet i kvalitet). Idejno rešenje sadrži i podatke o: 1) kapacitetu objekta; 2) opis proizvodnog procesa; 3) vrstu i količinu sirovine koja se koristi; 4) vrstu tehnološkog postupka i finalni proizvod; 5) podatke o drugim objektima (radovima) koji mogu uticati na vodne objekte i vodni režim (kvantitet i kvalitet podzemnih i površinskih voda). Takođe je potrebno dostaviti sledeće podatke grafičke priloge: 1) preglednu kartu; 2) situacioni prikaz svih postojećih i planiranih objekata (sa legendom), sa pratećom infrastrukturom (naročito vodovoda i kanalizacije) ili objekata i infrastrukture koja je predmet zahteva a nalazi se u zoni vodnih objekata i vodotoka (vodozahvati, ulivne i izlivne građevine, produktovodi, TT i optički kablovi, elektrovodovi i sl.) u odgovarajućoj razmeri na katastarskoj podlozi i dr.[81]

Idejni projekat se izrađuje za potrebe izgradnje solarne elektrane, ukoliko za nju građevinsku dozvolu izdaje ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine i podleže stručnoj kontroli od strane revizione komisije.

Idejnim projektom se određuju: namena, položaj, oblik, kapacitet, tehničko-tehnološke i funkcionalne karakteristike objekta, organizacioni elementi objekta i izgled objekta.

Projekat za građevinsku dozvolu[82] se izrađuje za potrebe pribavljanja građevinske dozvole.

81 Uputstvo o načinu postupanja nadležnih organa i imalaca javnih ovlašćenja koja sprovode objedinjenu proceduru u pogledu vodnih akata u postupcima ostvarivanja prava na gradnju

82 Shodno izmenama i dopunama Zakona o planiranju i izgradnji iz 2014. godine, deo tehničke dokumentacije pod nazivom „glavni projekat" je sadržinski izmenjen i dobio je novi naziv „projekat za građevinsku dozvolu".

Projekat za građevinsku dozvolu obavezno sadrži i izjavu glavnog projektanta, odgovornog projektanta i vršioca tehničke kontrole kojom se potvrđuje da je projekat izrađen u skladu sa lokacijskim uslovima, propisima i pravilima struke. Pored ovih elemenata, sastavni deo projekta za građevinsku dozvolu jeste i elaborat o zaštiti od požara. Ovaj elaborat izrađuje lice sa odgovarajućom licencom izdatom u skladu sa propisima kojima se uređuje zaštita od požara.

Projekat za izvođenje[83] se izrađuje za potrebe izvođenja radova na građenju. Projekat za izvođenje je skup međusobno usaglašenih projekata kojim se utvrđuju građevinsko-tehničke, tehnološke i eksploatacione karakteristike objekta sa opremom i instalacijama, tehničko-tehnološka i organizaciona rešenja za gradnju objekta, investiciona vrednost objekta i uslovi održavanja objekta.

Projekat za izvođenje radova sadrži izjavu glavnog projektanta i izjave odgovornih projektanata kojima se potvrđuje da je projekat izrađen u skladu sa lokacijskim uslovima, građevinskom dozvolom, projektom za građevinsku dozvolu, propisima i pravilima struke. Za objekte za koje se u skladu sa zakonom kojim se uređuje zaštita od požara pribavlja saglasnost na tehnički dokument, pre izdavanja upotrebne dozvole pribavlja se saglasnost na projekat za izvođenje u postupku objedinjene procedure.[84]Ovaj projekat se može izrađivati i u fazama, u kom slučaju se radovi izvode samo za onu fazu za koju je projekat potvrđen izjavom i izjavama odgovornih projektanata, da je izrađen u skladu sa lokacijskim uslovima, građevinskom dozvolom, projektom za građevinsku dozvolu, propisima i pravilima struke.

Projekat izvedenog objekta se izrađuje za potrebe pribavljanja upotrebne dozvole, korišćenja i održavanja solarne elektrane.

Projekat izvedenog objekta je projekat za izvođenje sa izmenama nastalim u toku građenja objekta. Ukoliko u toku građenja objekta nije bilo odstupanja od projekta za izvođenje, investitor, lice koje je vršilo stručni nadzor i izvođač radova potvrđuju i overavaju na projektu za izvođenje da je izvedeno stanje jednako projektovanom stanju. Projekat izvedenog objekta ne podleže tehničkoj kontroli, osim kada se izrađuje za potrebe legalizacije objekata.

83 Shodno izmenama i dopunama Zakona o planiranju i izgradnji iz 2014. godine, deo tehničke dokumentacije pod nazivom „izvođački projekat" je sadržinski izmenjen i dobio je novi naziv „projekat za izvođenje".

84 Uputstvo o načinu postupanja organa ministarstva unutrašnjih poslova i organa koji sprovode objedinjenu proceduru u postupcima ostvarivanja prava na gradnji za objekte na koje se primenjuje mere zaštite od požara, od 09.04.2015. godine, http://www.mgsi.gov.rs/cir/dokumenti/uputstvo-o-nacinu-postupanja-organa-ministarstva-unutrashnjih-poslova-i-organa-koji

2.1.6.1. Izrada tehničke dokumentacije

Tehničku dokumentaciju za izgradnju objekata može da izrađuje privredno društvo, odnosno drugo pravno lice, odnosno preduzetnik koji su upisani u odgovarajući registar privrednih subjekata. Tehničku dokumentaciju za izgradnju objekata za koje građevinsku dozvolu izdaje ministarstvo nadležno za poslove građevinarstva, odnosno autonomna pokrajina može da izrađuje privredno društvo, odnosno drugo pravno lice koje je upisano u odgovarajući registar za izradu tehničke dokumentacije za tu vrstu objekata, koje ima zaposlena lica sa licencom za odgovornog projektanta i koja imaju odgovarajuće stručne rezultate u izradi tehničke dokumentacije za tu vrstu i namenu objekata.[85]

U izradi tehničke dokumentacije ne može da učestvuje lice koje je zaposleno u privredno društvu, drugom pravnom licu ili preduzetničkoj radnji koje je ovlašćeno da utvrdi neki od uslova na osnovu kog se izrađuje tehnička dokumentacije. U izradi tehničke dokumentacije ne može da učestvuje ni lice koje vrši nadzor nad primenom odredbi ovog zakona.

Pravno lice koje obavlja komunalne delatnosti, odnosno delatnosti od opšteg interesa može da izrađuje tehničku dokumentaciju za izgradnju objekata koje će koristiti za obavljanje svoje delatnosti, pod uslovima propisanim ovim zakonom.

2.1.6.2. Tehnička kontrola

Projekat za građevinsku dozvolu podleže tehničkoj kontroli.[86'87]

Tehničku kontrolu projekta za građevinsku dozvolu može da vrši privredno društvo, odnosno drugo pravno lice i preduzetnik koji ispunjavaju uslove za izradu tehničke dokumentacije propisane zakonom. Investitor određuje koje lice će vršiti tehničku kontrolu.

Tehničku kontrolu ovog projekta ne može da vrši odgovorni projektant koji je izradio taj projekat, odnosno koji je zaposlen u privrednom društvu koje je izradilo taj projekat ili preduzeću koje je investitor. Ova kontrola obuhvata naročito: 1) proveru usklađenosti sa svim uslovima i pravilima sadržanim u lokacijskim uslovima, zakonu i drugim propisima, tehničkim normativima, standardima i normama kvaliteta, kao i međusobne usklađenosti svih delova tehničke dokumentacije; 2) usklađenosti projekta sa rezultatima prethodnih istraživanja (prethodni radovi); ocenu odgovarajućih podloga za temeljenje objekata; 3) proveru ispravnosti i tačnosti tehničko-tehnoloških rešenja objekta i rešenja građenja objekata; 4) stabilnosti i bezbednosti; 5) racionalnosti projektovanih materijala; 6) uticaja na životnu sredinu i susedne objekte. Tehnička kontrola projekta za građevinsku dozvolu za građenje objekata za koje građevinsku dozvolu izdaje ministarstvo nadležno za poslove građevinarstva, odnosno autonomna pokrajina, obuhvata i proveru usklađenosti sa merama sadržanim u izveštaju revizione komisije.[88]

85 Stručne rezultate ima lice koje je izradilo ili učestvovalo u izradi odnosno u vršenju tehničke kontrole tehničke dokumentacije po kojoj su izgrađeni objekti te vrste i namene. - član 126. stav 3. Zakona o planiranju i izgradnji.

86 Pravilnik o sadržini, načinu i postupku izrade i način vršenja kontrole tehničke dokumentacije prema klasi i nameni objekata.

87 Cilj tehničke kontrole projekta za građevinsku dozvolu proveri da li je ovaj projekat usklađen sa: 1) svim uslovima i pravilima sadržanim u lokacijskim uslovima, 2) zakonom, tehničkim i drugim propisima, 3) standardima i normama kvaliteta. Tehnička kontrola služi i da se: 1) proveri da li su svi delovi tehničke dokumentacije međusobno usklađeni, 2) proveri da li je projekat usklađen sa rezultatima prethodnih istraživanja (prethodni radovi), 3) izvrši ocena odgovarajućih podloga za temeljenje objekata, 4) proveri ispravnost i tačnost tehničko-tehnoloških rešenja objekta i rešenja građenja objekata, 5) proveri stabilnost i bezbednost objekta, 6) proveri racionalnost projektovanih materijala, 7) proveri uticaj na životnu sredinu i susedne objekte.

88 Ukoliko je Izveštaj o izvršenoj tehničkoj kontroli projekta za građevinsku dozvolu pozitivan, tj. nema primedbi koje bi dovele do izmene projektne dokumentacije, na samom projektu - na prvoj strani, navedeno lice udara pečat o izvršenoj tehničkoj kontroli koji potpisuje odgovorni projektant tehničke kontrole.

O izvršenoj tehničkoj kontroli sačinjava se izveštaj koji potpisuju projektanti sa odgovarajućim licencama koji su obavili tehničku kontrolu pojedinačnih delova projekata, a konačni izveštaj potpisuje zastupnik pravnog lica, odnosno preduzetnik.

Troškove tehničke kontrole snosi investitor. Projekat za građevinsku dozvolu izrađen po propisima drugih zemalja podleže tehničkoj kontroli kojom se proverava usklađenost te dokumentacije sa zakonom i drugim propisima, standardima, tehničkim normativima i normama kvaliteta. Ovaj projekat mora biti preveden na srpski jezik.

Privredno društvo odnosno drugo pravno lice ili preduzetnik, koje obavlja poslove izrade i kontrole tehničke dokumentacije, odnosno koje je izvođač radova, vršilac stručnog nadzora ili tehničkog pregleda, mora biti osigurano od odgovornosti za štetu koju može pričiniti drugoj strani odnosno trećem licu, u skladu sa pravilnikom koji je podzakonski akt Zakona o planiranju i izgradnji.[89]

2.1.6.3. Revizija projekata

Generalni projekat i idejni projekat, prethodna studija opravdanosti i studija opravdanosti za solarne elektrane, podležu reviziji, tj. stručnoj kontroli komisije koju obrazuje ministar nadležan za poslove građevinarstva za objekte za koje je nadležan da izdaje građevinsku dozvolu, odnosno komisiji koju obrazuje nadležni organ autonomne pokrajine za objekte za koje je nadležan da izdaje građevinsku dozvolu.

Reviziona komisija sačinjava izveštaj sa merama koje se obavezno primenjuju pri izradi projekata za izvođenje. Rok za dostavljanje ovog izveštaja ne može biti duži od 30 dana od dana podnošenja zahteva. Ukoliko reviziona komisija ne dostavi ovaj izveštaj u navedenom roku, smatraće se da komisija nema primedbe.

Troškove revizije projekta snosi investitor. Visina troškova propisana je pravilnikom koji je podzakonski akt Zakona o planiranju i izgradnji.[90]

2.1.7. Građevinska dozvola[91]

Po izvršenoj tehničkoj kontroli projekta za građevinsku dozvolu i pozitivnom izveštaju o izvršenoj tehničkoj kontroli, odnosno potvrđivanju ispravnosti na samom projektu za građevinsku dozvolu, podnosi se Zahtev za izdavanje građevinske dozvole. Uz zahtev za izdavanje građevinske dozvole i projekat za građevinsku dozvolu, investitor treba da dostavi dokaze propisane Pravilnikom o postupku sprovođenja objedinjene procedure i da plati odgovarajuće administrativne takse. Zahtev za izdavanje građevinske dozvole za solarnu elektranu snage 10 MW i više podnosi se ministarstvu nadležnom za poslove građevinarstva, odnosno nadležnom organ autonomne pokrajine ukoliko se solarna elektrana nalazi u celini na teritoriji autonomne pokrajine. Za solarnu elektranu snage do 10 MW građevinsku dozvolu izdaje nadležni organ jedinice lokalne samouprave na čijoj se teritoriji nalazi.

89 Ovaj pravilnik nije bio donet u vreme pisanja ovog Vodiča.
90 Ovaj pravilnik nije bio donet u vreme izrade ovog Vodiča.
91 Građevinska dozvola je osnovni uslov za izgradnju objekta i dokument nakon čijeg pribavljanja se može zahtevati status privremenog povlašćenog proizvođača električne energije, jer je jedan od uslova za sticanje ovog statusa. Više o sticanju statusa privremenog povlašćenog proizvođača električne energije u poglavlju 6. ovog Vodiča.

Zahtev za izdavanje građevinske dozvole sadrži: 1) ime i prezime investitora, odnosno poslovno ime ili naziv investitora sa PIB i podatkom o sedištu, odnosno adresi; 2) podatke o objektu čije se građenje, odnosno dogradnja dozvoljava (namena objekta: (stambeni, poslovni, industrijski, energetski, saobraćajni) gabarit, volumen, ukupna površina, dograđena površina, predračunska vrednost i dr.); 3) oznaku lokacije na kojoj je predviđena izgradnja, odnosno dogradnja objekta (oznaka katastarske parcele sa adresom na kojoj se objekat nalazi); 4) spisak priloga. U slučaju da se objekat gradi po delovima koji predstavljaju tehničku i funkcionalnu celinu, zahtev sadrži i podatke o planiranim fazama, odnosno etapama građenja i konačnom roku završetka radova. [92]

Uz zahtev za izdavanje građevinske dozvole prilaže se: 1) izvod iz projekta za građevinsku dozvolu, izrađen u skladu sa pravilnikom kojim se uređuje sadržina tehničke dokumentacije; 2) projekat za građevinsku dozvolu, u elektronskoj formi, kao i onoliko primeraka u papirnoj formi koliko podnosilac zahteva želi da mu nadležni organ overi i vrati prilikom izdavanja građevinske dozvole; 3) dokaz o uplaćenoj administrativnoj taksi za podnošenje zahteva i donošenje rešenja o građevinskoj dozvoli; 4) energetsku dozvolu za izgradnju; 5) dokaz o odgovarajućem pravu na zemljištu ili objektu u smislu Zakona o planiranju i izgradnji[93], osim ako je to pravo upisano u javnoj knjizi ili je uspostavljeno zakonom; 6) ugovor između investitora i finansijera, ako postoji; 7) ugovor između investitora i imaoca javnih ovlašćenja, odnosno drugi dokaz o obezbeđivanju nedostajuće infrastrukture, ako je to uslov za izdavanje građevinske dozvole predviđen lokacijskim uslovima; 8) izveštaj revizione komisije, za objekte za koje građevinsku dozvolu izdaje ministarstvo, odnosno nadležni organ autonomne pokrajine; 9) energetsku dozvolu, izdatu u skladu sa posebnim zakonom, za izgradnju energetskih objekata za koje postoji obaveza pribavljanja energetske dozvole; 10) saglasnost preostalih suvlasnika, overena u skladu sa zakonom, ako se gradi ili se izvode radovi na građevinskom zemljištu ili objektu koji je u suvlasništvu više lica; 11) uslovi za projektovanje i priključenje objekata na distributivni, odnosno prenosni sistem električne energije, kao i na distributivni, odnosno sistem za transport prirodnog gasa, koji su pribavljeni u skladu sa zakonom kojim se uređuje oblast energetike, a nisu sadržani u lokacijskim uslovima. Za objekte za koje

92 Pravilnik o sadržini i načinu izdavanja građevinske dozvole („Sl. glasnik RS" br. 93/11 i 103/13- odluka US). Kako je ovaj pravilnik donet na osnovu Zakona o planiranju i izgradnji, pre poslednjih izmena, autor je terminološki uskladio odredbe ovog pravilnika sa odredbama Zakona o planiranju i izgradnji koji je kasnije donet.

93 Kao odgovarajuće pravo na zemljištu smatra se pravo svojine, pravo zakupa na građevinskom zemljištu u javnoj svojini, kao i druga prava propisana ovim zakonom. Kao odgovarajuće pravo na građevinskom zemljištu za lica iz člana 102. stav 9. Zakona o planiranju i izgradnji, smatra se i pravo korišćenja na građevinskom zemljištu koje je upisano u odgovarajuću evidenciju nepokretnosti i pravima na njima, do donošenja posebnog propisa kojim će biti uređeno pravo i način sticanja prava svojine na građevinskom zemljištu za ova lica. Lica iz člana 102. stav 9. Zakona o planiranju i izgradnji su: 1) lica, nosioce prava korišćenja na građevinskom zemljištu, koja su bila ili jesu privredna društva i druga pravna lica na koja su se primenjivale odredbe zakona kojima se uređuje privatizacija, stečajni i izvršni postupak, kao i njihove pravne sledbenike; 2) lica nosioce prava korišćenja na neizgrađenom građevinskom zemljištu u državnoj svojini koje je stečeno radi izgradnje u skladu sa ranije važećim zakonima kojima je bilo uređeno građevinsko zemljište do 13. maja 2013. godine, ili na osnovu odluke nadležnog organa; 3) lica, nosioce prava korišćenja na građevinskom zemljištu, čiji je položaj određen zakonom kojim se uređuje sport, kao i udruženja; 4) društvena preduzeća, nosioce prava korišćenja na građevinskom zemljištu; 5) lica, nosioce prava korišćenja na građevinskom zemljištu, na koja se primenjuju odredbe propisa Republike Srbije i bilateralnih međunarodnih ugovora kojima se uređuje sprovođenje Aneksa Sporazuma o pitanjima sukcesije ("Službeni list SRJ - Međunarodni ugovori", broj 6/02). Pravo i uslovi za pretvaranje prava korišćenja građevinskog zemljišta u pravo svojine ovih lica uređuju se posebnim zakonom.

je propisano plaćanje doprinosa za uređenje građevinskog zemljišta, sastavni deo zahteva iz stava 1. ovog člana je i izjašnjenje podnosioca o načinu plaćanja doprinosa za uređenje građevinskog zemljišta, kao i sredstvima obezbeđenja u slučaju plaćanja na rate, za objekte čija ukupna bruto razvijena građevinska površina prelazi 200 m^2 i koji sadrži više od dve stambene jedinice.

Za objekte za koje građevinsku dozvolu izdaje ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine, uz zahtev se podnosi i izveštaj revizione komisije.

Građevinska dozvola se izdaje u roku od 5 radnih dana od dana podnošenja zahteva, u obliku rešenja.

Građevinska dozvola sadrži naročito podatke o: 1) investitoru; 2) objektu čije se građenje dozvoljava (sa osnovnim podacima o gabaritu, kapacitetima, površini, predračunskoj vrednosti i predračunskom vrednošću); 3) katastarskoj parceli na kojoj se objekat gradi (broj parcele i naziv katastarske opštine na kojoj se nalazi, kao i površinu katastarske parcele, odnosno katastarskih parcela, osim ako se građevinska dozvola izdaje za linijske objekte i antenske stubove); 4) postojećem objektu koji se uklanja ili rekonstruiše radi građenja; 5) roku važenja građevinske dozvole; 6) dokumentaciji na osnovu koje se izdaje; 7) finansijeru, ako je uz zahtev za izdavanje građevinske dozvole priložen i ugovor između investitora i finansijera;[94] 8) podatke o načinu regulisanja doprinosa za uređenje gradskog građevinskog zemljišta, uključujući i visinu doprinosa, pravo na umanjenje na osnovu ugovora sa imaocima javnih ovlašćenja; 9) pravima i obavezama investitora i imaoca javnih ovlašćenja, ako je uz zahtev za izdavanje građevinske dozvole priložen i ugovor između investitora i imaoca javnih ovlašćenja, odnosno drugi dokaz o obezbeđivanju nedostajuće infrastrukture, ako je to uslov za izdavanje građevinske dozvole predviđen lokacijskim uslovima; 10) druge podatke propisane zakonom. Sastavni deo građevinske dozvole su lokacijski uslovi, izvod iz projekta za građevinsku dozvolu i projekat za građevinsku dozvolu.

Na rešenje kojim se izdaje građevinska dozvola može se izjaviti žalba u roku od osam dana od dana dostavljanja.

Po žalbi na rešenje o građevinskoj dozvoli jedinice lokalne samouprave, rešava ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine ukoliko se objekat gradi na teritoriji autonomne pokrajine.

94 Građevinska dozvola se izdaje na ime investitora i finansijera ako je uz zahtev za izdavanje priložen ugovor između investitora i finansijera, overen u skladu sa zakonom koji uređuje overu potpisa, u kome se investitor saglasio da nosilac prava i obaveze iz građevinske dozvole bude i finansijer. Finansijer solidarno sa investitorom odgovara za sve obaveze prema trećim licima, koje su posledica radnji koje preduzme u skladu sa ovlašćenjima koja su mu preneta ugovorom koji je zaključio sa investitorom.

Po žalbi protiv prvostepenog rešenja o građevinskoj dozvoli donetoj za građenje objekta do 800 m^2 bruto razvijene građevinske površine na teritoriji grada Beograda, rešava nadležni organ Grada Beograda.

Na rešenje kojim se izdaje građevinska dozvola, koje donosi ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine, ne može se izjaviti žalba, ali se tužbom može pokrenuti upravni spor.

Građevinska dozvola prestaje da važi ako se ne otpočne sa građenjem objekta, odnosno izvođenjem radova, u roku od dve godine od dana pravnosnažnosti rešenja kojim je izdata građevinska dozvola. Ukoliko je građevinsku dozvolu izdalo ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ jedinice lokalne samouprave, ova dozvola prestaje da važi, ako se u roku od pet godina od dana pravnosnažnosti rešenja kojim je izdata ne izda upotrebna dozvola.

Na zahtev investitora, nadležni organ može doneti rešenje kojim se odobrava da pravnosnažna građevinska dozvola ostaje na pravnoj snazi još dve godine od propisanog roka od 2, odnosno 5 godina, ako investitor pruži dokaz da je stepen završenosti objekata preko 80%, odnosno ako se u postupku utvrdi da je objekat ukrovljen, sa postavljenom spoljnom stolarijom i izvedenim razvodima unutrašnjih instalacija koje omogućavaju njegovo priključenje na spoljnu mrežu infrastrukture.

U članu 144. Zakona o planiranju i izgradnji propisani su slučajevi kada nije potrebno pribaviti građevinsku dozvolu za postavljanje solarnih kolektora.[95]

2.1.8. Građenje objekta

Građenju objekta se može pristupiti na osnovu pravnosnažnog rešenja o građevinskoj dozvoli i prijavi radova.[96]

Investitor podnosi prijavu radova organu koji je izdao građevinsku dozvolu najkasnije osam dana pre početka izvođenja radova. Uz prijavu radova podnosi se dokaz o regulisanju obaveza u pogledu doprinosa za uređivanje građevinskog zemljišta, kao i dokaz o plaćenoj administrativnoj taksi. Ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine o podnetoj prijavi obaveštava građevinsku inspekciju. Rok za završetak radova počinje da teče od dana podnošenja prijave radova. Ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine, izdato rešenje dostavlja jedinici lokalne samouprave na čijoj teritoriji se gradi objekat, radi informisanja.

Prijava sadrži datum početka i rok završetka građenja, odnosno izvođenja radova.

Pre početka građenja investitor obezbeđuje: 1) obeležavanje građevinske parcele; 2) regulacionih, nivelacionih i građevinskih linija, u skladu sa propisima kojima je uređeno izvođenje geodetskih radova; 3) obeležavanje gradilišta odgovarajućom tablom, koja[97] sadrži: podatke o objektu koji se gradi, investitoru, odgovornom projektantu, broj građevinske dozvole, izvođaču radova, početku građenja i roku završetka izgradnje.

Građenje solarne elektrane, odnosno izvođenje radova može da vrši privredno, odnosno drugo pravno lice ili preduzetnik (u daljem tekstu: izvođač radova).

Građenje elektrane, odnosno izvođenje radova na elektrani, može da vrši privredno društvo, odnosno drugo pravno lice koje je upisano u odgovarajući registar za građenje te

95 O posebnim slučajevima izgradnje elektrane videti više u odeljku 3.2. ovog teksta.
96 Članom 148. Zakona o planiranju i izgradnji regulisana je prijava radova.
97 Pravilnik o načinu zatvaranja i obeležavanju zatvorenog gradilišta („Sl. glasnik RS" br. 22/15).

vrste objekata, odnosno za izvođenje te vrste radova, koje ima zaposlena lica sa licencom za odgovornog izvođača radova i odgovarajuće stručne rezultate (rezultati ostvareni na rukovođenju građenjem ili saradnji na građenju najmanje dva objekta).

Obaveze izvođača radova su da: 1) pre početka radova potpiše projekat za izvođenje, 2) rešenjem odredi odgovornog izvođača radova na gradilištu, 3) odgovornom izvođaču radova obezbedi Ugovor o građenju i dokumentaciju na osnovu koje se gradi objekat, 4) obezbedi preventivne mere za bezbedan i zdrav rad u skladu sa zakonom.

Odgovorni izvođač radova dužan je da: 1) izvodi radove prema dokumentaciji na osnovu koje je izdata građevinska dozvola, odnosno projektu za izvođenje; 2) organizuje gradilište na način kojim će obezbediti pristup lokaciji; 3) obezbeđuje sigurnost objekta i lica na gradilištu i okoline; 4) obezbeđuje dokaz o kvalitetu izvršenih radova; 5) vodi građevinski dnevnik, građevinsku knjigu i obezbeđuje knjigu inspekcije; 6) obezbeđuje merenja i geodetsko osmatranje ponašanja tla i objekta u toku građenja; 7) obezbeđuje objekte i okolinu u slučaju prekida radova; 8) na gradilištu obezbedi ugovor o građenju, Rešenje o određivanju odgovornog izvođača radova na gradilištu i projekat za izvođenje, odnosno dokumentacija na osnovu koje se objekat gradi.

Investitor obezbeđuje stručni nadzor u toku građenja objekta, odnosno izvođenja radova za koje je izdata građevinska dozvola. Stručni nadzor može da vrši lice koje ispunjava uslove propisane Zakonom o planiranju i izgradnji za odgovornog projektanta ili odgovornog izvođača radova. U vršenju stručnog nadzora na objektu ne mogu da učestvuju lica koja su zaposlena u privrednom društvu, odnosno drugom pravnom licu ili preduzetničkoj radnji koje je izvođač radova na tom objektu, lica koja vrše inspekcijski nadzor, kao i lica koja rade na poslovima izdavanja građevinske dozvole u organu nadležnom za izdavanje građevinske dozvole.

Ukoliko se radi o priključenju na prenosni sistem, nakon što je pribavljena građevinska dozvola za izgradnju priključka solarne elektrane na prenosni sistem, proizvođač podnosi zahtev za zaključenje Ugovora o praćenju gradnje priključka, čime pokreće inicijativu za početak gradnje priključka. Zahtevza zaključenje Ugovora o praćenju gradnje priključka dostupan je na sajtu operatora prenosnog sistema – JP EMS. Zavisno od načina izgradnje priključka koji je proizvođač izabrao u fazi izrade planske i tehničke dokumentacije i pribavljanja potrebnih dozvola za izgradnju priključka, shodno Zakonu o energetici, zaključuje se odgovarajući Ugovor o praćenju gradnje priključka i to: 1) operator prenosnog sistema kao investitor vrši gradnju priključka o trošku proizvođača ili 2) operator prenosnog sistema kao investitor ovlašćuje proizvođača da u ime operatora prenosnog sistema, a o svom trošku gradi priključak, pri čemu proizvođač upravlja gradnjom priključka pod kontrolom operatora prenosnog sistema.

2.1.9. Tehnički pregled solarne elektrane i upotrebna dozvola

2.1.9.1. Tehnički pregled[98]

Podobnost solarne elektrane za upotrebu utvrđuje se tehničkim pregledom, po završetku izgradnje.

Tehnički pregled objekta vrši se u roku od 30 dana od dana podnošenja Zahteva za izvršenje tehničkog pregleda objekta – ministarstvu nadležnom za poslove građevinarstva, odnosno lokalnoj samoupravi, odnosno jedinici lokalne samouprave (u zavisnosti nadležnog organa koji je izdao građevinsku dozvolu).

Ovaj pregled objekata vrši komisija ili privredno društvo, odnosno drugo pravno lice kome investitor poveri vršenje tih poslova i koje je upisano u odgovarajući registar za obavljanje tih poslova. Sastav ove komisije uređen je Pravilnikom o sadržini i načinu vršenja tehničkog pregleda objekta, sastavu komisije, sadržini predloga komisije o utvrđivanju podobnosti objekta za upotrebu, osmatranju tla i objekta u toku građenja i upotrebe i minimalnim garantnim rokovima za pojedine vrste objekata. Kada je predmet tehničkog pregleda objekat za koji su utvrđene posebne mere zaštite od požara, član komisije za tehnički pregled je i inženjer protivpožarne zaštite sa odgovarajućom licencom. U vršenju tehničkog pregleda, za objekte za koje je rađena studija uticaja na životnu sredinu, mora da učestvuje lice koje je stručno iz oblasti koja je predmet studije, a koje ima stečeno visoko obrazovanje odgovarajuće struke, odnosno smera, na studijama drugog stepena diplomske akademske studije - master, specijalističke akademske studije, odnosno na osnovnim studijama u trajanju od najmanje pet godina.[99]

Komisija izdaje Izveštaj/Nalaz komisije za tehnički pregled.

Troškove tehničkog pregleda snosi investitor.

O tehničkom pregledu vodi se zapisnik, koji potpisuju članovi komisije.

Ako se, radi utvrđivanja podobnosti objekta za upotrebu, moraju vršiti prethodna ispitivanja i provera instalacija, uređaja, postrojenja, stabilnosti ili bezbednosti objekta, uređaja i postrojenja za zaštitu životne sredine, uređaja za zaštitu od požara ili druga ispitivanja, ili ako je to predviđeno tehničkom dokumentacijom, komisija za tehnički pregled, odnosno subjekt kome je povereno vršenje tehničkog pregleda može da odobri puštanje objekta u probni rad, pod uslovom da utvrdi da su za to ispunjeni uslovi, i o tome bez odlaganja obavesti nadležni organ. Da bi solarna elektrana bila stavljena u probni rad, potrebno je da bude priključena na elektroenergetsku mrežu.[100]

Aktom o odobravanju puštanja objekta u probni rad utvrđuje se vreme trajanja probnog rada, koje ne može biti duže od jedne godine, kao i obaveza investitora da prati rezultate probnog rada i da po isteku probnog rada nadležnom organu dostavi podatke o njegovim rezultatima.

Komisija za tehnički pregled, odnosno subjekt kome je povereno vršenje tehničkog

98 Pravilnik o sadržini i načinu vršenja tehničkog pregleda objekta, sastavu komisije, sadržini predloga komisije o utvrđivanju podobnosti objekta za upotrebu, osmatranju tla i objekta u toku građenja i upotrebe i minimalnim garantnim rokovima za pojedine vrste objekata ("Sl. glasnik RS" br. 27/15).

99 Na osnovu člana 31. stav 2. Zakona o proceni uticaja, nadležni organ koji je vodio postupak procene uticaja imenuje lice koje učestvuje u radu komisije za tehnički pregled. Ovo imenovano lice može biti zaposleno ili postavljeno u nadležnom organu, odnosno u drugom organu i organizaciji ili biti nezavisni stručnjak koji poseduje dokaze o kvalifikaciji za učešće u radu tehničke komisije iz člana 22. ovog zakona. Upotrebna dozvola ne može se izdati ako ovo imenovano lice ne potvrdi da su ispunjeni uslovi iz odluke o davanju saglasnosti na Studiju o proceni uticaja, a u slučaju da je doneta Odluka da se Studija mora raditi.

100 O priključenje solarne elektrane na elektroenergetsku mrežu, više u poglavlju 4. ovog Vodiča.

pregleda, u toku probnog rada objekta proverava ispunjenost uslova za izdavanje upotrebne dozvole i izveštaj o tome dostavlja investitoru.

2.1.9.2. Upotrebna dozvola[101]

Objekat za koji je predviđeno izdavanje građevinske dozvole, može se koristiti po prethodno pribavljenoj upotrebnoj dozvoli.

Organ nadležan za izdavanje građevinske dozvole izdaje rešenjem upotrebnu dozvolu, u roku od pet radnih dana od dana podnošenja zahteva za izdavanje upotrebne dozvole.

Postupak za *izdavanje upotrebne dozvole* pokreće se podnošenjem zahteva nadležnom organu, uz koji zahtev se prilaže: 1) projekat za izvođenje sa potvrdom i overom investitora, lica koje vrši stručni nadzor i izvođača radova da je izvedeno stanje jednako projektovanom u slučaju da u toku građenja nije bilo odstupanja od projekta za izvođenje, odnosno projekat izvedenog objekta izrađen u skladu sa pravilnikom kojim se uređuje sadržina tehničke dokumentacije; 2) izveštaj komisije za tehnički pregled, kojim se utvrđuje da je objekat podoban za upotrebu, sa predlogom za izdavanje upotrebne dozvola; 3) dokaz o plaćanju propisanih taksi, odnosno naknada; 4) sertifikat o energetskim svojstvima objekta, ako je za objekat propisana obaveza pribavljanja sertifikata o energetskim svojstvima; 5) dokaz o uplati administrativne takse za izdavanje upotrebne dozvole; 6) elaborat geodetskih radova za izvedeni objekat i posebne delove objekta; 7) elaborat geodetskih radova za podzemne instalacije.

Upotrebna dozvola izdaje se za ceo objekat ili za deo objekta koji predstavlja tehničko-tehnološku celinu i može se kao takav samostalno koristiti.

Upotrebna dozvola sadrži i garantni rok za objekat i pojedine vrste radova utvrđene posebnim propisom.[102]

Upotrebna dozvola se dostavlja investitoru ili finansijeru (ukoliko na njega glasi upotrebna dozvola), nadležnoj građevinskoj inspekciji i imaocima javnih ovlašćenja.

Postupak za dobijanje upotrebne dozvole je dvostepen. Žalba se može uložiti u roku od 8 dana od dana dostavljanja rešenja, ministarstvu nadležnom za poslove građevinarstva, odnosno autonomnoj pokrajini, ako se objekat gradi na teritoriji autonomne pokrajine.

Na rešenje o upotrebnoj dozvoli, kada je donosilac rešenja ministarstvo nadležno za poslove građevinarstva, odnosno nadležni organ autonomne pokrajine, ne može se uložiti žalba, ali se može pokrenuti upravni spor u roku od 30 dana od dana dostavljanja.

Potrebno je ukazati da u roku od pet radnih dana po pravnosnažnosti izdate upotrebne dozvole, nadležni organ po službenoj dužnosti dostavlja organu nadležnom za poslove državnog premera i katastra upotrebnu dozvolu, elaborat geodetskih radova za izvedeni

101 Upotrebna dozvola je jedan od uslova koji su potrebni za sticanje statusa povlašćenog proizvođača električne energije i statusa proizvođača električne energije iz obnovljivih izvora. Više o ovome u poglavlju 6. ovog Vodiča.

102 Pravilnik o minimalnim garantnim rokovima za pojedine vrste objekata odnosno radova („Sl. glasnik RS" br. 93/11).

objekat i posebne delove objekta, kao i elaborat geodetskih radova za podzemne instalacije.

Ovaj organ vrši upis prava svojine na objektu i o tome obaveštava investitora i nadležni organ uprave u roku od sedam dana od dostavljanja upotrebne dozvole.[103]

Pored pribavljanja upotrebne dozvole za solarnu elektranu potrebno je pribaviti i upotrebnu dozvolu za priključak solarne elektrane na prenosni, odnosno distributivni sistem.

2.2. Posebni slučajevi izgradnje solarnih elektrana[104]

Posebnim slučajevima izgradnje solarnih elektrana smatrali bi se slučajevi utvrđeni Zakonom o planiranju i izgradnji za koje se ne izdaje građevinska dozvola.

2.2.1. Izvođenje radova kada se ne pribavljaju nikakva akta nadležnih organa za gradnju

Posebna vrsta objekata, odnosno radova za koje nije potrebno pribavljati akt nadležnog organa za gradnju, odnosno akt za izvođenje radova jesu jednostavni objekti. Jednostavnim objektima se smatraju objekti koji se grade na istoj katastarskoj parceli na kojoj je sagrađen glavni objekat, a koji se izvode na način da ne ometaju redovno korišćenje susednih objekata. Zakon posebno navodi solarne kolektore koji se ne priključuju na elektroenergetsku distributivnu mrežu, kao ovakve objekte.

2.2.2. Građenje objekata na osnovu rešenja kojim se odobrava izvršenje tih radova, koje izdaje organ nadležan za izdavanje građevinske dozvole

Građenje pomoćnih objekata[105] i ekonomskih objekata[106] u koje spada izgradnja elektrana koje koriste obnovljive izvore energije instalirane snage 50 kW, koje se vrši na osnovu rešenja kojim se odobrava izvođenje tih radova, koje izdaje organ nadležan za izdavanje građevinske dozvole, je takođe slučaj građenja objekata bez izdavanje građevinske dozvole.

Uz zahtev za izdavanje rešenja podnosi se: 1) dokaz o pravu svojine; 2) idejni projekat prema klasi objekta; 3) dokaz o uređenju odnosa sa jedinicom lokalne samouprave u pogledu doprinosa za uređivanje građevinskog zemljišta i 4) dokaz o plaćenoj propisanoj administrativnoj taksi.

103 Član 158. stav 11. i 12. Zakona o planiranju i izgradnji i Pravilnik o postupku sprovođenja objedinjene procedure elektronskim putem („Sl. glasnik RS" br. 113/15).

104 Član 144. i 145. Zakona o planiranju i izgradnji.

105 Pomoćni objekat jeste objekat koji je u funkciji glavnog objekta, a gradi se na istoj parceli na kojoj je sagrađen glavni stambeni, poslovni ili objekat javne namene (garaže, ostave, septičke jame, bunari, cisterne za vodu i sl.) – Član 2. tačka 24) Zakona o planiranju i izgradnji.

106 Ekonomski objekti jesu objekti za gajenje životinja (staje za gajenje konja, štale za gajenje goveda, objekti za gajenje živine, koza, ovaca i svinja, kao i objekti za gajenje golubova, kunića, ukrasne živine i ptica); prateći objekti za gajenje domaćih životinja (ispusti za stoku, betonske piste za odlaganje čvrstog stajnjaka, objekti za skladištenje stoke); objekti za skladištenje stočne hrane (senici, magacini za skladištenje koncentrovane stočne hrane, betonirane silo jame i silo trenčevi), objekti za skladištenje poljoprivrednih proizvoda (ambari, koševi) i drugi slični objekti na poljoprivrednom gazdinstvu (objekti za mašine i vozila, pušnice, sušionice i sl.) – Član 2. tačka 24a) Zakona o planiranju i izgradnji.

Za radove na izgradnji/postavljanju solarnih elektrana na objektima u granicama nacionalnog parka, objekata u granicama zaštite zaštićenog prirodnog dobra od izuzetnog značaja, kao i objekta u zaštićenoj okolini kulturnih dobara od izuzetnog značaja i kulturnih dobara upisanih u Listu svetske kulturne baštine, rešava nadležni organ jedinice lokalne samouprave na čijoj teritoriji se nalazi predmetni objekat.

Nadležni organ donosi rešenje u roku od pet dana od dana podnošenja zahteva. Izuzetak je slučaj ukoliko nadležni organ odbija zahtev, ako je za izvođenje radova navedenih u zahtevu potrebno izdavanje građevinske dozvole, kada je rok za donošenje rešenja osam dana od dana podnošenja zahteva.

Na ova rešenja može se izjaviti žalba u roku od osam dana od dana dostavljanja rešenja, ministarstvu nadležno za poslove građevinarstva, odnosno nadležnom organu autonomne pokrajine ukoliko se radi o objektu odnosno radovima na njenoj teritoriji.

Pravnosnažno rešenje kojim se odobrava izvođenje radova za objekte, koji se u skladu sa odredbama zakona kojim se uređuje upis u javnu knjigu o evidenciji nepokretnosti i pravima na njima mogu upisati u javnu evidenciju, predstavlja osnov za upis u javnu knjigu o evidenciji nepokretnosti i pravima na njima.

Po završetku izgradnje, odnosno izvođenja radova, postavljanja solarne elektrane, po zahtevu investitora, nadležni organ može izdati upotrebnu dozvolu. Ako je za predmetni objekat, odnosno izvođenje radova izdata i upotrebna dozvola po zahtevu investitora, osnov za upis u javnu knjigu predstavlja pravnosnažno rešenje kojim se odobrava izvođenje radova i pravnosnažno rešenje o upotrebnoj dozvoli.

3.

ODOBRENJE ZA PRIKLJUČENJE ELEKTRANE NA ELEKTROENERGETSKU MREŽU

3. ODOBRENJE ZA PRIKLJUČENJE ELEKTRANE NA ELEKTROENERGETSKU MREŽU[107]

Nakon dobijanja upotrebne dozvole neophodno je izvršiti priključenje solarne elektrane na elektroenergetsku mrežu. Objekat proizvođača električne energije priključuje se na prenosni odnosno distributivni elektroenergetski sistem pod uslovima i na način propisan Zakonom o energetici, Uredbom o uslovima isporuke i snabdevanja električnom energijom[108] i Pravilima o radu prenosnog, odnosno distributivnog elektroenergetskog sistema, a u skladu sa standardima i tehničkim propisima koji se odnose na uslove priključenja i korišćenja elektroenergetskih objekata, uređaja i postrojenja.

Troškove priključenja utvrđuje operator sistema, u skladu sa Metodologijom za utvrđivanje troškova priključenja koju donosi Agencija[109]. Troškovi priključenja obuhvataju i troškove nabavke mernih uređaja i snosi ih podnosilac zahteva za priključenje.

Obračun troškova priključka zavisi od mesta priključenja na sistem, odobrene snage, potrebe za izvođenjem radova i potrebe za pružanjem usluga ili potrebe za ugrađivanjem neophodne opreme i drugih objektivnih kriterijuma.

Postupak počinje podnošenjem zahteva za izdavanje odobrenja za priključenje, koji se podnosi energetskom subjektu za prenos, odnosno distribuciju električne energije na čiji sistem se priključuje solarna elektrana. Obrazac zahteva izrađuje operator sistema i čini ih dostupnim u svojim sedištima i objavljuje ih na svojoj internet stranici.

Zahtev za izdavanje odobrenja za priključenje objekta za proizvodnju električne energije na prenosni, odnosno distributivni sistem sadrži podatke o: 1) vlasniku objekta, odnosno korisniku javne svojine (za fizičko lice: lični podaci – ime, prezime i prebivalište i jedinstveni matični broj građana, a za pravno lice odnosno preduzetnika: poslovno ime odnosno naziv, sedište, izvod iz registra privrednih subjekata, poreski identifikacioni broj, matični broj, račun i odgovorno lice); 2) objektu za čije se priključenje traži izdavanje odobrenja za priključenje (adresa, vrsta i namena objekta); 3) ukupnoj instalisanoj snazi objekta, broju, snazi i vrsti generatorskih jedinica; 4) očekivanoj godišnjoj i mesečnoj proizvodnji električne energije; 5) sopstvenoj potrošnji; 6) planiranom načinu rada (ostrvski rad, paralelni ili kombinovani rad); 7) vremenu kad se predviđa izgradnja, odnosno priključenje objekta; 8) druge podatke u skladu sa pravilima o radu. Uz zahtev za izdavanje odobrenja za priključenje objekta prilaže se: 1) dokaz o

107 Ovde je potrebno navesti da se shodno članu 118. Zakona o energetici priključenje elektrane na prenosni sistem vrši na način da je operator prenosnog sistema investitor ovog priključka. Takođe, shodno članu 140. stav 6. Zakona o energetici priključenje na distributivni elektroenergetski sistem objekta koji je u funkciji proizvodnje električne energije ne obavlja se u objedinjenoj proceduri. Ako postoji potreba da se objekat za proizvodnju električne energije priključi kao kupac na (distributivni) elektroenergetski sistem, tada se pribavljanje uslova za priključenje vrši kroz objedinjenu proceduru.

108 Uredba o uslovima isporuke i snabdevanja električnom energijom („Sl. glasnik RS", br. 63/13).

109 Odluka o utvrđivanju metodologije za određivanje troškova priključenja na sistem za prenos i distribuciju električne energije („Sl. glasnik RS" br.109/15).

pravu svojine na objektu ili pravu korišćenja objekta; 2) građevinska dozvola za objekat koji se prvi put priključuje.

Ako zahtev za izdavanje odobrenja za priključenje ne sadrži sve podatke i dokumentaciju, operator sistema na čiji sistem se zahteva priključenje, dužan je da u roku od 15 dana od dana prijema zahteva za objekte za proizvodnju električne energije, o tome pismeno obavesti podnosioca zahteva i da mu odredi rok za dostavljanje podataka koji nisu sadržani u zahtevu.

3.1 Priključenje na prenosni sistem

Prava i obaveze operatora prenosnog sistema i proizvođača, u postupku priključenja, uređuju se ugovorima i to: 1) ugovorom o izradi studije priključenja objekta na prenosni sistem; 2) ugovorom o izradi planske i tehničke dokumentacije i pribavljanju potrebnih dozvola za izgradnju priključka; 3) ugovorom o praćenju gradnje priključka.

Priključenje solarne elektrane na prenosni sistem vrši se na osnovu odobrenja za priključenje. Zahtev za izdavanje odobrenja za priključenje podnosi se JP EMS-u, po dobijanju građevinske dozvole za gradnju solarne elektrane koja se priključuje na prenosni sistem. Odobrenje za priključenje objekta izdaje se rešenjem u upravnom postupku u pismenoj formi u roku od 60 dana.[110] Protiv rešenja može se podneti žalba Agenciji, u roku od 15 dana od dana dostavljanja rešenja. Odluka Agencije po žalbi je konačna i protiv nje se može pokrenuti upravni spor.

Odobrenje za priključenje se izdaje sa rokom važenja koji odgovara roku izgradnje objekta, odnosno roku završetka radova na objektu, u skladu sa propisima kojima se uređuje planiranje i izgradnja objekta, a najduže dve godine od dana donošenja rešenja. Na zahtev podnosioca zahteva, rok važenja rešenja kojim je odobreno priključenje se može produžiti. Zahtev za produženje roka podnosi se najkasnije 30 dana pre isteka roka važenja rešenja kojim je odobreno priključenje.

Odobrenje za priključenje objekta na prenosni sistem sadrži naročito: 1) mesto priključenja na sistem; 2) način i tehničke uslove priključenja; 3) troškove priključenja; 4) potrebna ispitivanja usaglašenosti sa Pravilima o radu prenosnog sistema; 5) instalisani kapacitet; 6) odobrenu snagu; 7) mesto primopredaje energije i način merenja energije i snage; 8) rok za fizičko priključenje objekta.

Tehnički i drugi uslovi priključenja na prenosni sistem operator prenosnog sistema određuje u skladu sa Zakonom o energetici, Uredbom o uslovima isporuke i snabdevanja električnom energijom, tehničkim i drugim propisima i pravilima o radu prenosnog sistema.

Nakon izgradnje solarne elektrane i priključka solarne elektrane na prenosni sistem, neophodno je izvršiti proveru ispunjenosti tehničkih uslova iz odobrenja za priključenje. Inicijativu pokreće proizvođač podnošenjem zahteva operatoru prenosnog sistema, koji u

110 Član 120. stav 4. Zakona o energetici.

roku od 45 dana, od dana prijema zahteva, sa podnosiocem zahteva usaglašava Protokol za puštanje objekta u pogon. Nakon usaglašavanja, Protokol se obostrano potpisuje.

Operator prenosnog sistema je dužan da priključi objekat proizvođača na prenosni sistem u roku od 15 dana od dana ispunjenja sledećih uslova: 1) uslova iz odobrenja za priključenje, koje je sam izdao;[111] 2) da je za objekat pribavljen akt kojim se odobrava puštanje u probni rad ili upotrebna dozvola za objekat i priključak; 3) da kupac, odnosno proizvođač dostavi operatoru sistema ugovor o snabdevanju električnom energijom, bez komercijalnih podataka; 4) da je za mesto primopredaje uređena balansna odgovornost i pristup sistemu.

Prilikom puštanju objekta u pogon mogu postojati sledeći režimi: 1) ispitni pogon – na objektu se vrše funkcionalna ispitivanja sa puštanjem pod napon pojedinih delova objekta, 2) probni pogon – objekat pušten pod napon do dobijanja upotrebne dozvole, 3) trajni pogon – objekat pod naponom u trajnom eksploatacionom režimu.

Po usaglašavanju dinamike realizacije Protokola za puštanje objekta u probni pogon obostrano je potpisuju operator prenosnog sistema i proizvođač-podnosilac zahteva. Ukoliko postoje neusaglašenosti sa Pravilima o radu prenosnog sistema, operator prenosnog sistema u saradnji sa proizvođačem određuje rokove za ispravljanje neusaglašenosti. Proizvođač shodno Protokolu za puštanje objekta u probni pogon, u saradnji sa operatorom prenosnog sistema i komisijom za tehnički pregled, organizuje puštanje u probni pogon (puštanje objekta pod napon do upotrebne dozvole). Puštanje objekta u probni pogon može se obaviti tek pošto se dobiju pozitivni izveštaji sa funkcionalnih ispitivanja i provera usaglašenosti objekta sa Pravilima o radu prenosnog sistema izvršenih tokom ispitnog pogona. Troškovi operatora prenosnog sistema u realizaciji Protokola za puštanje objekta u pogon se utvrđuju pri usaglašavanju Protokola za puštanje objekta u pogon (vrsta objekta, tip opreme u objektu, lokacija objekta itd.). Ovi troškovi se naplaćuju proizvođaču.

Nakon puštanja objekta u trajni pogon (pribavljena upotrebna dozvola za priključak i objekat) i po završetku svih aktivnosti i ispunjenja međusobnih obaveza u svim fazama realizacije projekta priključenja, operator prenosnog sistema i proizvođač električne energije zatvaraju projekat priključenja objekta na prenosni sistem.

Zabranjeno je: priključivanje objekata na sistem bez odobrenja za priključenje, samovlasno priključivanje objekata, uređaja ili instalacija na prenosni sistem, kao i puštanje u pogon istih.

U postupku priključenja solarne elektrane na prenosni sistem operator prenosnog sistema i proizvođač zaključuju i sledeće Ugovore: Ugovor o eksploataciji objekta[112], Ugovor o balansnoj odgovornosti, Ugovor o pristupu, Ugovor o snabdevanju, u skladu sa Pravilima o radu prenosnog sistema i Zakonom o energetici.

U slučaju priključenja objekta proizvođača na deo distributivnog sistema kojim upravlja operator prenosnog sistema odobrenje za priključenje izdaje operator prenosnog sistema. Pre izdavanja odobrenja za priključenje operator prenosnog sistema, pribavlja od operatora distributivnog sistema: 1) tehničke uslove za priključenje koji su od značaja za distributivni sistem; 2) prethodnu saglasnost za izdavanje odobrenja za priključenje.

111 U postupku priključenja, pre puštanja uređaja i instalacija u objektu pod napon, odnosno u pogon, pored provere ispunjenosti uslova utvrđenih Zakonom o energetici i Uredbom o uslovima isporuke i snabdevanja električnom energijom, operator sistema proverava da li su uređaji i instalacije u objektu usaglašeni sa tehničkim i drugim uslovima iz odobrenja za priključenje. Ispunjenost uslova proverava operator sistema u prisustvu ovlašćenih lica investitora objekta o čemu se sačinjava zapisnik. Ispunjenost uslova proverava se i u slučaju kada se priključuje objekat koji je prethodno isključen sa sistema.

112 Ugovor o eksploataciji objekta (priključka), sadrži sledeće elemente: 1) spisak objekata koji se priključuju na prenosni sistem, na koje se ugovor odnosi; 2) granice vlasništva na primarnoj, sekundarnoj i ostaloj opremi; 3) nadležne centre upravljanja operatora prenosnog sistema i vetroelektrane; 4) spisak ovlašćenog osoblja za tehničku saradnju; 5) razmenu tehničke dokumentacije; 6) tehničke parametre koji se odnose na merenje električne energije; 7) poverljive podatke na osnovu kriterijuma iz Pravila o radu operatora prenosnog sistema.

3.2. Priključenje na distributivni sistem

Objekat proizvođača električne energije priključuje se na distributivni sistem na osnovu odobrenja operatora distributivnog sistema u skladu sa Zakonom o energetici, Uredbom o uslovima isporuke i snabdevanja električnom energijom, tehničkim i drugim propisima i pravilima o radu distributivnog sistema.

Operator distributivnog sistema je investitor izgradnje priključka i, po pravilu, gradi priključak na distributivni sistem. Na zahtev proizvođača električne energije, operator distributivnog sistema je dužan da izda ovlašćenje proizvođaču da u ime operatora sistema sam izgradi priključak o svom trošku. U tom slučaju, proizvođaču će se umanjiti troškovi priključenja na sistem u skladu sa metodologijom za određivanje troškova priključenja na sistem za prenos i distribuciju. Za priključak se pribavlja se dokumentacija na ime operatora distributivnog sistema u skladu sa zakonom kojim se uređuje izgradnja objekata. Prava i obaveze operatora distributivnog sistema i proizvođača, uređuju se ugovorom koji pored elemenata utvrđenih zakonom koji uređuje obligacione odnose naročito sadrži: 1) praćenje izgradnje priključka; 2) dinamiku izvođenja radova i rokove; 3) stručni nadzor koji je odredio investitor i 4) druga pitanja. Po izgradnji priključka, priključak postaje deo distributivnog sistema.

Odobrenje za priključenje objekta izdaje se rešenjem u upravnom postupku na zahtev vlasnika ili korisnika javne svojine čiji se objekat priključuje.[113] Protiv rešenja može se podneti žalba Agenciji, u roku od 15 dana od dana dostavljanja rešenja. Odluka Agencije po žalbi je konačna i protiv nje se može pokrenuti upravni spor.

Odobrenje za priključenje se izdaje sa rokom važenja koji odgovara roku izgradnje objekta, odnosno roku završetka radova na objektu, u skladu sa propisima kojima se uređuje planiranje i izgradnja objekta, a najduže dve godine od dana donošenja rešenja. Na zahtev podnosioca zahteva, rok važenja rešenja kojim je odobreno priključenje se može produžiti. Zahtev za produženje roka podnosi se najkasnije 30 dana pre isteka roka važenja rešenja kojim je odobreno priključenje.

Operator distributivnog sistema je dužan da odluči po zahtevu za priključenje objekta proizvođača u roku od 45 dana od dana prijema pismenog zahteva.

Odobrenje za priključenje objekta na distributivni sistem sadrži naročito: 1) mesto priključenja na sistem; 2) način i tehničke uslove priključenja; 3) odobrenu snagu; 4) mesto i način merenja energije; 5) rok za priključenje i 6) troškove priključenja.

Tehničke i druge uslove priključenja na distributivni sistem operator sistema određuje u skladu sa Zakonom o energetici, Uredbom o uslovima isporuke i snabdevanja električnom energijom, tehničkim i drugim propisima i pravilima o radu distributivnog sistema.

Operator distributivnog sistema je dužan da priključi objekat proizvođača električne energije na distributivni sistem u roku od osam dana od dana ispunjenja sledećih uslova: 1)

113 Nadležni energetski subjekt će izdati pozitivno rešenje, ukoliko su ispunjeni svi uslovi, a na osnovu tehničkog izveštaja, obračuna troškova priključka i drugih raspoloživih dokumenata.

uslova iz odobrenja za priključenje;[114] 2) da je za objekat pribavljen akt kojim se odobrava puštanje u probni rad ili upotrebna dozvola; 3) da proizvođač dostavi operatoru distributivnog sistema ugovor o snabdevanju električnom energijom; 4) da je za mesto primopredaje uređena balansna odgovornost i pristup sistemu.

Priključenjem objekta priključak postaje deo sistema na koji je priključen.

U slučaju potrebe za priključenje objekta za koje je odobren probni rad u skladu sa posebnim zakonom može se izdati odobrenje za privremeno priključenje objekta. Izdavanje odobrenja za privremeno priključenje i isporuku energije vrši se pod uslovima, na način i postupak propisanim za izdavanja odobrenja za priključenje objekata.

Zabranjeno je: priključivanje objekata na sistem bez odobrenja za priključenje, samovlasno priključivanje objekata, uređaja ili instalacija na distributivni sistem, kao i puštanje u pogon istih.

114 U postupku priključenja, pre puštanja uređaja i instalacija u objektu pod napon, odnosno u pogon, pored provere ispunjenosti uslova utvrđenih Zakonom, operator sistema proverava da li su uređaji i instalacije u objektu usaglašeni sa tehničkim i drugim uslovima iz odobrenja za priključenje. Ispunjenost uslova proverava operator sistema u prisustvu ovlašćenih lica investitora objekta o čemu se sačinjava zapisnik. Ispunjenost uslova proverava se i u slučaju kada se priključuje objekat koji je prethodno isključen sa sistema.

4.

LICENCA

4. LICENCA[115]

Licenca je administrativni akt kojim se utvrđuje ispunjenost uslova za obavljanje energetskih delatnosti propisanih zakonom o energetici. Licencu izdaje Agencija za energetiku Republike Srbije (u daljem tekstu: Agencija). Licenca se izdaje rešenjem u roku od 30 dana od dana podnošenja zahteva za izdavanje licence, ukoliko su ispunjeni propisani uslovi.

Uslovi za izdavanje licence su propisani Zakonom o energetici i Pravilnikom o licenci za obavljanje energetske delatnosti i sertifikaciji.[116]To je za elektrane jedini pravni akt kojim se stiče pravo na obavljanje energetske delatnosti. Licencu mora da poseduje lice koje već ima u posedu elektranu, ukoliko je registrovano za obavljanje delatnosti.

Uslovi za izdavanje licence su: 1) da je podnosilac zahteva osnovan ili registrovan, za obavljanje energetske delatnosti za koju se izdaje licenca; 2) da je za energetski objekat izdata upotrebna dozvola, osim za objekte za koje propisom kojim se uređuje izgradnja objekata nije predviđeno izdavanje upotrebne dozvole; 3) da energetski objekti i ostali uređaji, instalacije ili postrojenja neophodni za obavljanje energetske delatnosti ispunjavaju uslove i zahteve utvrđene tehničkim propisima, propisima o energetskoj efikasnosti, propisima o zaštiti od požara i eksplozija, kao i propisima o zaštiti životne sredine; 4) da podnosilac zahteva ispunjava propisane uslove u pogledu stručnog kadra za obavljanje poslova tehničkog rukovođenja, rukovanja i održavanja energetskih objekata, odnosno uslove u pogledu broja i stručne osposobljenosti zaposlenih lica za obavljanje poslova na održavanju energetskih objekata, kao i poslova rukovaoca u tim objektima; 5) da podnosilac zahteva ispunjava finansijske uslove za obavljanje energetske delatnosti; 6) da direktor, odnosno članovi organa upravljanja nisu bili pravnosnažno osuđeni za krivična dela u vezi sa obavljanjem privredne delatnosti; 7) da podnosiocu zahteva nije izrečena mera zabrane obavljanja delatnosti ili ako su prestale pravne posledice izrečene mere; 8) da podnosilac zahteva poseduje dokaz o pravnom osnovu za korišćenje energetskog objekta u kojem se obavlja energetska delatnost; 9) da nad podnosiocem zahteva nije pokrenut postupak stečaja ili likvidacije. Pored navedenih uslova podnosilac zahteva za obavljanje delatnosti od opšteg interesa mora biti osnovan za obavljanje te delatnosti ili tu delatnost obavlja kao poverenu u skladu sa posebnim zakonom, koji uključuje i javno-privatno partnerstvo.

Licenca za proizvodnju električne energije izdaje se na period od 30 godina.[117]

Prilikom izdavanja licence plaća se određena taksa Agenciji. Za posedovanje licence

115 Licenca za obavljanje energetskih delatnosti je jedan od uslova koji su potrebni za sticanje statusa povlašćenog proizvođača električne energije i statusa proizvođača električne energije iz obnovljivih izvora. Više o ovim statusima u poglavlju 5. ovog Vodiča

116 Pravilnik o licenci za obavljanje energetske delatnosti i sertifikaciji („Sl. glasnik RS" br. 87/15).

117 Član 20. stav 2. Zakona o energetici.

Agenciji se godišnje plaća određena naknada.[118]

U slučaju da nosilac licence prestane da ispunjava propisane uslove za dobijanje licence, ili da ne ispunjava bilo koje druge propise vezane za obavljanje energetske delatnosti, licenca mu se može privremeno ili stalno oduzeti.

Izuzetno, licenca nije potrebna za obavljanje: 1) proizvodnje električne energije u objektima ukupne odobrene snage priključka do 1 MW i manje, osim ako isti energetski subjekt proizvodnju električne energije vrši u dva ili više energetskih objekata čija ukupna odobrena snaga prelazi snagu od 1 MW, bez obzira da li su povezani na sistem preko jednog ili više priključaka; 2) proizvodnje električne energije isključivo za sopstvene potrebe.

U Pravilniku o licenci za obavljanje energetske delatnosti sertifikaciji, definisani su posebni obrasci zahteva za izdavanje licence za obavljanje energetske delatnosti za proizvodnju električne energije. Kada se radi o proizvodnji električne energije različito je definisan obrazac u zavisnosti od objekata u kojima se proizvodi električna energije.[119]

Uz zahtev za izdavanje licence za obavljanje energetske delatnosti podnosi se: 1) akt o osnivanju i izvod iz registra u skladu sa propisom kojim se uređuje registracija privrednih subjekata, kao i akt o poveravanju obavljanja delatnosti od opšteg interesa, odnosno ugovor o koncesiji; 2) upotrebnu dozvolu, odnosno akt nadležnog organa da nije predviđeno izdavanje upotrebne dozvole; 3) izveštaj nadležnog inspektora da energetski objekti i ostali uređaji, instalacije ili postrojenja neophodni za obavljanje energetske delatnosti ispunjavaju uslove i zahteve utvrđene tehničkim propisima, propisima o energetskoj efikasnosti, propisima o zaštiti od požara i eksplozija, kao i propisima o zaštiti životne sredine; 4) dokaze o ispunjenosti finansijskih uslova za obavljanje energetske delatnosti i to: 4.1) akt nadležnog organa o izmirenju poreskih obaveza; 4.2) program poslovanja ili poslovni plan za godinu u kojoj se podnosi zahtev za izdavanje licence; 4.3) potvrda poslovne banke o ostvarenom prometu i dnevnom prosečnom stanju sredstava na svim tekućim računima podnosioca zahteva za prethodne dve godine, 4.4) bilans stanja i bilans uspeha za prethodne dve godine 4.5) standardizovane izveštaje o bonitetu: BON 1 - Potpuni izveštaj o pokazateljima za ocenu boniteta, BON 2 - Izveštaj o finansijskom položaju i uspešnosti poslovanja; 5) potvrdu nadležnog organa da direktor, odnosno članovi organa upravljanja nisu bili pravnosnažno osuđeni za krivična dela u vezi sa obavljanjem privredne delatnosti; 6) akt nadležnog organa kojim se potvrđuje da podnosiocu zahteva nije bila izrečena mera zabrane obavljanja delatnosti ili ako su prestale pravne posledice izrečene mere; 7) pravni osnov korišćenja energetskog objekta u kojem se obavlja energetska delatnost; 8) akt nadležnog organa da nad podnosiocem zahteva nije pokrenut stečaj ili likvidacija; 9) izjavu podnosioca zahteva da nije bio vlasnik ili imao vlasnički udeo ili bio zaposlen u energetskom subjektu kome je trajno oduzeta licenca,

118 Naknada za licence utvrđena je Aktima Agencije za energetiku i to: Kriterijumima i merilima za određivanje visine naknade za licence za obavljanje energetskih delatnosti i Odlukom o vrednosti koeficijenta za obračun visine naknade za licence za obavljanje energetskih delatnosti za konkretnu godinu, www.aers.org.

119 Formulari zahteva za izdavanje licence iz Pravilnika o bližim uslovima i sadržini zahteva za izdavanje, izmenu i oduzimanje licence za obavljanje energetskih delatnosti i o načinu vođenja registra izdatih i oduzetih licenci: 1) Opšti obrazac OO1 – kada se zahtev za izdavanje licence podnosi Agenciji; 2) Obrazac PO 1.4 - Zahtev za izdavanje licence za proizvodnju električne energije u solarnim elektranama.

koja treba da uključi isti status i za bračne drugove, decu ili srodnike u pravoj liniji nezavisno od stepena srodstva ili pobočne srodnike zaključno sa drugim stepenom srodstva; 10) dokaz o uplati administrativne takse. (Ukoliko podnosilac zahteva posluje manje od dve godine tačke 4.3 – 4.5) se menjaju i glase: 4.3) kao i potvrdu poslovnih banaka o ostvarenom prometu i dnevnom prosečnom stanju sredstava na svim tekućim računima podnosioca zahteva od dana otvaranja tekućeg računa do dana podnošenja zahteva poslovnoj banci, 4.4) bilans stanja i bilans uspeha za prethodnu godinu, odnosno početni bilans stanja, ako energetski subjekt otpočine sa poslovanjem; 4.5) potvrdu poslovne banke ili matičnog preduzeća da podnosiocu zahteva može staviti na raspolaganje neophodna finansijska sredstva ili druga sredstva obezbeđenja prema obimu planirane aktivnosti).

Licenca je neprenosiva.

O izdatim licencama se vodi Registar izdatih i oduzetih licenci. Ovaj registar se vodi kao javna knjiga u obliku registarske knjige (štampana forma) i kao jedinstvena baza podataka (elektronska forma).

Registar izdatih i oduzetih licenci je dostupan na internet stranici Agencije za energetiku Republike Srbije, a uvid u registar se može obaviti u službenim prostorijama Agencije za energetiku Republike Srbije.

5.

STATUS PROIZVOĐAČA ELEKTRIČNE ENERGIJE KOJU PROIZVODI U SOLARNOJ ELEKTRANI

5. STATUS PROIZVOĐAČA ELEKTRIČNE ENERGIJE KOJU PROIZVODI U SOLARNOJ ELEKTRANI

Zakonom o energetici je utvrđena mogućnost sticanja različitih statusa za proizvođače koji proizvode električnu energiju u solarnoj elektrani instalisane snage:

1) 2 MW za solarne elektrane na objektu pojedinačne snage do 30 kW;
2) 2 MW za solarne elektrane na objektu pojedinačne snage veće od 30 kW do 500 kW;
3) 6 MW za solarne elektrane na zemlji pojedinačne snage do 500 kW.

Status privremenog povlašćenog proizvođača električne energije, status povlašćenog proizvođača električne energije i status proizvođača iz obnovljivih izvora može steći energetski subjekt i fizičko lice.

Energetski subjekt koji poseduje solarnu elektranu može steći status privremenog povlašćenog proizvođača, status povlašćenog proizvođača električne energije, odnosno status proizvođača iz obnovljivih izvora ukoliko elektrana u procesu proizvodnje električne energije koristi obnovljiv izvor energije - energiju sunčevog zračenja, proizvodi električnu energiju u novoizgrađenim, odnosno rekonstruisanim elektranama u kojima je ugrađena nekorišćena oprema, instalisana snaga solarne elektrane je manja ili jednaka slobodnom kapacitetu određenog podzakonskim aktom Zakona o energetici[120] i ispunjava druge uslove propisane Zakonom o energetici i Uredbom o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije[121]. Kada su solarne elektrane u pitanju, Uredbom o uslovima i postupku za sticanje statusa povlašćenog proizvođača električne energije[122] propisano je da je zbir instalisanih snaga za solarne elektrane – maksimalni kapacitet, do kojeg se može steći status povlašćenog proizvođača, odnosno status privremenog povlašćenog proizvođača, određen prema vrstama solarnih elektrana na sledeći način: 1) 2 MW za elektrane na objektima pojedinačne snage do 30 kW; 2) 2 MW za elektrane na objektima pojedinačne snage od 30 kW do 500 kW i 3) 6 MW za elektrane na tlu (zemlji) pojedinačne snage do 500 kW.

Za fizičko lice u pogledu sticanja statusa povlašćenog, statusa privremenog povlašćenog proizvođača električne energije i statusa proizvođača iz obnovljivih izvora postoji još jedno ograničenje, a to je da ovaj status može steći samo za jednu elektranu, pa kako je predmet ovog rada solarna elektrana instalisane snage do 30 kW, znači samo za jednu solarnu elektranu instalisane snage do 30 kW.[123]

Zakonom o energetici je utvrđeno da povlašćeni proizvođači električne energije imaju pravo na podsticajne mere koje obuhvataju: 1) obavezu otkupa električne energije

120 Uredba o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije („Sl. glasnik RS", br. 56/16).
121 Uredba o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.
122 Uredba o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.
123 Član 70. stav 5. Zakona o energetici.

od povlašćenog proizvođača; 2) cene po kojima se ta energija otkupljuje; 3) period važenja obaveze otkupa električne energije; 4) preuzimanje balansne odgovornosti; 5) i druge podsticajne mere propisane aktom donetim na osnovu zakona o energetici, kao i drugim zakonima i propisima kojima se uređuju porezi, carine i druge dažbine, zaštita životne sredine i energetska efikasnost.

Podsticajne mere može koristiti energetski subjekt i fizičko lice, koji je stekao status povlašćenog proizvođača i status privremenog povlašćenog proizvođača u smislu Zakona o energetici i podzakonskih akata ovog zakona.[124]

Povlašćeni proizvođač i privremeni povlašćeni proizvođač ostvaruju pravo na podsticajne mere stupanjem na snagu ugovora o otkupu električne energije sa garantovanim snabdevačem, u skladu sa Zakonom o energetici i propisima donetim na osnovu ovog Zakona. Zakonom o energetici je takođe utvrđen postupak podnošenja zahteva za sticanje statusa privremenog povlašćenog proizvođača električne energije, statusa povlašćenog proizvođača električne energije i statusa proizvođača iz obnovljivih izvora. Na osnovu Zakona o energetici Vlada je donela Uredbu o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije[125], Uredbu o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije[126] i Uredbu o ugovoru o otkupu električne energije[127]. Takođe, Vlada je donela i Uredbu o naknadi za podsticaj povlašćenih proizvođača električne energije [128], kao i Uredbu kojom je utvrdila visinu naknade za podsticaj u 2016. godini.[129] Ova naknada bi trebalo da se utvrđuje svake godine.

Energetski subjekat i fizičko lice ne mogu istovremeno imati status proizvođača iz obnovljivih izvora i status povlašćenog proizvođača za istu solarnu elektranu.

Zakonom o energetici[130] je propisano da se za solarne elektrane koje ispunjavaju propisane uslove, pre sticanja statusa povlašćenog proizvođača električne energije, može steći status privremenog povlašćenog proizvođača električne energije.

Uredbom o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije utvrđene su i pojedine obaveze povlašćenog proizvođača, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije[131].

124 Uredba o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije, Uredba o podsticajnom merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije („Sl. glasnik RS", br. 56/16) i Uredba o ugovoru o otkupu električne energije („Sl. glasnik RS", br. 56/16).

125 Uredba o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

126 Uredba o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije.

127 Uredba o ugovoru o otkupu električne energije.

128 Uredba o naknadi za podsticaj povlašćenih proizvođača električne energije („Sl. glasnik RS", broj 12/16).

129 Uredba o visini posebne naknade za podsticaj u 2016 godini („Sl. glasnik RS", br. 12/16).

130 Član 71. Zakona o energetici.

131 Članovi 27-29. Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

5.1. Sticanje statusa privremenog povlašćenog proizvođača električne energije

Energetski subjekt, odnosno fizičko lice, može, pre sticanja statusa povlašćenog proizvođača, steći status privremenog povlašćenog proizvođača električne energije, ako:

1) može da pristupi građenju solarne elektrane, za koju se može steći status povlašćenog proizvođača električne energije[132], u skladu sa Zakonom o planiranju i izgradnji;
2) je pribavio finansijski instrument obezbeđenja[133], za slučaj da ne stekne status povlašćenog proizvođača za soalrnu elektranu instalisane snage veće od 100 kW;
3) iz tehničke dokumentacije proizilazi da za planiranu solarnu elektranu može da stekne status povlašćenog proizvođača, što je bliže uređeno članom 5. tačka 3) Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

Zahtev za sticanje statusa privremenog povlašćenog proizvođača podnosi se na Obrascu O-1[134]. Uz ovaj zahtev se podnosi: 1) za pravno lice, odnosno preduzetnika: izvod o registrovanim podacima (poslovno ime, pravna forma, sedište, delatnost, poreski identifikacioni broj, matični broj); 2) za fizičko lice: fotokopija lične karte, odnosno uverenje o državljanstvu ili fotokopija pasoša, ako je podnosilac strani državljanin; 3) pravnosnažna građevinska dozvola ili pravnosnažno odobrenje za izgradnju, osim ako za solarnu elektranu nije potrebno pribaviti akt nadležnog organa za izgradnju u kom slučaju se podnosi informacija o lokaciji koja nije starija od šest meseci od dana podnošenja zahteva; 4) kopija izvoda iz projekta za potrebe pribavljanja građevinske dozvole ili idejni projekat ili druga tehnička dokumentacija na osnovu koje se gradi solarnu elektrana, u skladu sa zakonom kojim se uređuje planiranje i izgradnja objekata; 5) za solarne elektrane na objektu, list nepokretnosti za objekat na kome se planira montiranje elektrane sa kopijom katastarskog plana, ako se dokazom iz tačke 3) ne može utvrditi na kom objektu se planira montiranje elektrane;6) akt (mišljenje, uslovi i sl.) o mogućnosti priključenja na distributivni, odnosno prenosni sistem izdat od strane operatora distributivnog, odnosno prenosnog sistema koji je pribavio u prethodnim postupcima radi dobijanja građevinske dozvole i izrade tehničke dokumentacije za solarnu elektranu; 7) potvrda o uplati novčanog depozita, odnosno originalni primerak bankarske garancije; 8) dokaz o uplati administrativne takse.[135,136]

132 Uslovi iz člana 70. stav 1. i 2. Zakona o energetici.

133 Finansijski instrument obezbeđenja bliže je određen članom 7. Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije („Sl. glasnik RS", br. 56/16), u obliku novčanog depozita ili bankarske garancije. Na internet stranici ministarstva nadležnog za poslove energetike (http://www.mre.gov.rs/energetska-efikasnost-obnovljivi-izvori-procedure.php) se nalazi broj računa za uplatu depozita i model bankarske garancije.

134 Obrazac O-1, verzija od 16.06.2016. godine, www.mre.gov.rs, (Zahtev za izdavanje rešenja o sticanju statusa privremenog povlašćenog proizvođača električne energije).

135 Član 21. Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

136 Na internet stranici ministarstva nadležnog za poslove energetike (http://www.mre.gov.rs/energetska-efikasnost-obnovljivi-izvori-takse.php) se nalazi broj modela uplatnice za uplatu ove takse.

Za elektrane koje koriste energiju sunčevog zračenja status privremenog povlašćenog proizvođača važi jednu godinu od dana pravnosnažnosti rešenja o sticanju privremenog statusa povlašćenog proizvođača električne energije.

Status privremenog povlašćenog proizvođača može se produžiti iz sledećih razloga: 1) samo jednom za najviše godinu dana, pod uslovom da se uz zahtev za produženje priloži dokaz da je solarna elektrana izgrađena[137] ili 2) za period koji je potreban da se otklone dejstva nepredvidivih okolnosti[138] koje sprečavaju privremenog povlašćenog proizvođača da stekne status povlašćenog proizvođača u skladu sa Zakonom o energetici. Period koji je potreban da se otklone dejstva nepredvidivih okolnosti ne može da bude duži od roka trajanja statusa privremenog povlašćenog proizvođača.

Ovaj zahtev se može podneti najkasnije 30 dana pre isteka roka važenja statusa povlašćenog proizvođača. Rešenje po ovom zahtevu donosi ministarstvo nadležno za poslove energetike u roku od 30 dana od dana podnošenja zahteva. Protiv rešenja ovog ministarstva može se izjaviti žalba Vladi u roku od 15 dana od prijema rešenja.

Status privremenog povlašćenog proizvođača se može oduzeti.[139]

Privremeni povlašćeni proizvođač ostvaruje pravo na podsticajne mere u skladu sa Zakonom o energetici, Uredbom o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije, zaključenjem ugovora o otkupu električne energije sa garantovanim snabdevačem pod odložnim uslovom[140].

Garantovani snabdevač je dužan da na zahtev privremenog povlašćenog proizvođača zaključi ugovor o otkupu električne energije u roku od 30 dana od dana podnošenja zahteva. Privremeni povlašćeni proizvođač koji u skladu sa Zakonom o energetici („Sl. glasnik br. 145/14) stekne status povlašćenog proizvođača ima pravo samo na podsticajne mere koje su važile na dan podnošenja zahteva za sticanje statusa privremenog povlašćenog proizvođača.[141]

Prava i obaveze privremenog povlašćenog proizvođača u pogledu korišćenja podsticajnih mera za vreme probnog rada solarne elektrane uređeni su podzakonskim aktom Zakona o energetici.[142]

5.2. Sticanje statusa povlašćenog proizvođača električne energije

Energetski subjekt i fizičko lice može steći status povlašćenog proizvođača električne energije (u daljem tekstu: povlašćeni proizvođač) za elektranu, odnosno deo elektrane ako: 1)

137 Članom 23. Uredbe o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije, propisani su dokazi koji se podnose uz zahtev za produžetak trajanja statusa privremenog povlašćenog proizvođača kada je elektrana izgrađena.

138 Ove nepredvidive okolnosti su bliže uređene u članu 15. Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije, a isprave koje se podnose kao dokazi da su nastupile nepredvidive okolnosti su propisane u članu 24. ove uredbe.

139 Status privremenog povlašćenog proizvođača se oduzima ako: 1) je rešenje o sticanju ovog statusa doneto na osnovu neistinitih podataka; 2) ne ispunjava obaveze utvrđene Zakonom o energetici i aktima donetim na osnovu ovog zakona; 3) su akti na osnovu kojih je stekao status povlašćenog proizvođača pravnosnažno ukinuti, poništeni ili stavljeni van snage; 4) ako ne održava finansijsko sredstvo obezbeđenja za vreme trajanja statusa privremenog povlašćenog proizvođača.

140 Elementi Ugovora o otkupu električne energije su bliže uređeni Uredbom o ugovoru o otkupu električne energije, a model ovog ugovora se nalazi na www.mre.gov.rs.

141 Član 77. stav 3. Zakona o energetici.

142 Uredba o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije („Sl. glasnik RS", br. 56/16).

u procesu proizvodnje električne energije koristi obnovljive izvore energije i ispunjava uslove u pogledu instalisane snage; 2) je izgrađena i podobna za upotrebu u skladu sa zakonom kojim se uređuje izgradnja objekata; 3) ima obezbeđeno posebno merenje, odvojeno od merenja u drugim tehnološkim procesima, kojim se meri preuzeta i predata električna energija u sistem, sa jasno označenim mernim uređajima izvedenim u skladu sa Zakonom o energetici i pravilima o radu distributivnog, odnosno prenosnog sistema; 4) proizvodi električnu energiju u novoizgrađenim, odnosno rekonstruisanim elektranama u kojima je ugrađena nekorišćena oprema; 5) ima licencu za obavljanje delatnosti u skladu sa zakonom o energetici; 6) koristi energiju sunčevog zračenja, sa maksimalnim kapacitetom: 6.1) 2 MW za elektrane na objektu pojedinačne snage do 30 kW; 6.2) 2 MW za elektrane na objektu pojedinačne snage veće od 30 kW do 500 kW i 6.3) 6 MW za elektrane na zemlji pojedinačna snage do 500 kW i 7) ispunjava i druge uslove u skladu sa Uredbom o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

Status povlašćenog proizvođača izdaje se za instalisanu snagu solarne elektrane ili dela solarne elektrane koja odgovara ukupno odobrenoj snazi od strane operatora sistema za priključenje solarneelektrane ili dela solarne elektrane, na distributivni, odnosno prenosni sistem[143].

Proizvođač koji obavlja delatnost proizvodnje električne energije u više solarnih elektrana koje koriste obnovljive izvore energije koje ispunjavaju kriterijume za sticanje statusa povlašćenog proizvođača električne energije shodno navedenoj uredbi, podnosi zahtev za sticanje statusa povlašćenog proizvođača za svaku solarnu elektranu posebno.

Proizvođač koji obavlja delatnost proizvodnje električne energije u solarnoj elektrani koja sadrži različite proizvodne jedinice, može steći status povlašćenog proizvođača samo za one proizvodne jedinice koje ispunjavaju uslove propisane Zakonom o energetici i Uredbom o uslovima i postupku za sticanje statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

Propisano je da u mestima priključenja na prenosni, odnosno distributivni sistem proizvodne jedinice za koje se podnosi zahtev za sticanje statusa povlašćenog proizvođača moraju biti ugrađeni posebni merni uređaji za merenje električne energije sa karakteristikama shodno Zakonu o energetici i pravilima o radu prenosnog, odnosno distributivnog sistema. Pored mernih uređaja, ove proizvodne jedinica moraju imati označena merna mesta na kojima se meri ukupna proizvedena toplota, povratna toplota i potrošnja primarne energije.

Zahtev za sticanje statusa povlašćenog proizvođača podnosi se ministarstvu nadležnom za poslove energetike na Obrascu O-2.[144]

143 Član 3. stav 2. Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

144 Obrazac O-2, verzija od 16.06.2016. godine, (Zahtev za izdavanje rešenja o sticanju statusa povlašćenog proizvođača električne energije), www.mre.gov.rs.

Uz zahtev za sticanje statusa povlašćenog proizvođača dostavljaju se dokazi o ispunjenosti uslova za sticanje tog statusa, i to: 1) za pravno lice, odnosno preduzetnika: izvod o registrovanim podacima (poslovno ime, pravna forma, sedište, delatnost, poreski identifikacioni broj, matični broj); 2) za fizičko lice: fotokopija lične karte, odnosno uverenje o državljanstvu ili fotokopija pasoša, ako je podnosilac strani državljanin; 3) upotrebna dozvola u skladu sa zakonom kojim se uređuje planiranje i izgradnja objekata ili potvrda nadležnog organa da za izgrađenu solarnu elektranu, odnosno deo solarne elektrane nije potrebno pribaviti upotrebnu dozvolu; 4) za solarne elektrane na objektu, list nepokretnosti sa kopijom katastarskog plana za objekat na kome je montirana elektrana, ako se dokazom iz tačke 3) ne može utvrditi na kom objektu je montirana elektrana; 5) za rekonstruisane elektrane dokaz o rekonstrukciji elektrane sa datumom izgradnje i puštanja u rad rekonstruisane elektrane, ako se dokazom iz tačke 3) ne može utvrditi da je elektrana rekonstruisana; 6) odobrenje za priključenje solarne elektrane sa šemom mernih uređaja; 7) dokazi da ugrađena oprema nije prethodno korišćena, kao što su: podaci o godini proizvodnje, račun o nabavci opreme ili radova, ugovor sa proizvođačem/dobavljačem, deklaracija proizvođača/dobavljača ili slični dokazi kojima se nedvosmisleno dokazuje da ugrađena oprema nije prethodno korišćena; 8) overena izjava odgovornog lica podnosioca zahteva kojom pod materijalnom i krivičnom odgovornošću potvrđuje da ugrađena oprema nije prethodno korišćena; 9) licenca za obavljanje delatnosti proizvodnje električne energije, u skladu sa Zakonom o energetici; 10) dokaz o uplati administrativne takse[145],[146].

Status povlašćenog proizvođača utvrđuje ministarstvo nadležno za poslove energetike rešenjem koje se donosi u roku od 30 dana od dana podnošenja zahteva za sticanje statusa povlašćenog proizvođača, ako su ispunjeni uslovi. Protiv ovog rešenja se može podneti žalba Vladi u roku od 15 dana od dana prijema rešenja.

Povlašćeni proizvođač je dužan da pismeno obavesti ministarstvo nadležno za poslove energetike o svim promenama podataka iz propisanog obrasca, odnosno o svim planiranim promenama tehnološkog procesa, vrste primarnog goriva ili drugih karakteristika solarne elektrane koje su od značaja za sticanje statusa povlašćenog proizvođača prema Zakonu o energetici i ovoj uredbi, najkasnije 30 dana pre započinjanja planiranih radova.

Status povlašćenog proizvođača se oduzima ako: 1) je rešenje o sticanju statusa povlašćenog proizvođača doneto na osnovu neistinitih podataka; 2) ne ispunjava obaveze utvrđene Zakonom o energetici i aktima donetim na osnovu ovog zakona; 3) proizvodi električnu energiju suprotno uslovima pod kojima je stekao status povlašćenog proizvođača električne energije iz obnovljivih izvora; 4) su akti na osnovu kojih je stekao status povlašćenog proizvođača pravnosnažno ukinuti, poništeni ili stavljeni van snage.

145 Član 20. Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

146 Na internet stranici ministarstva nadležnog za poslove energetike (http://www.mre.gov.rs/energetska-efikasnost-obnovljivi-izvori-takse.php) se nalazi broj modela uplatnice za uplatu ove takse.

Ministarstvo nadležno za poslove energetike vodi registar povlašćenih proizvođača, privremenih povlašćenih proizvođača i proizvođača električne energije iz obnovljivih izvora energije. Registar sadrži glavni i pomoćni registar. Na internet stranici ministarstva nadležnog za poslove energetike[147], u okviru glavnog registra, posebno se prikazuju podaci o proizvođačima koji imaju status povlašćenog proizvođača, status privremenog povlašćenog proizvođača i status proizvođača iz obnovljivih izvora, a posebno podaci o proizvođačima kojima je taj status prestao da važi. Pomoćni registar sadrži podatke koji su od značaja za tačno vođenje podataka i transparentnost upisa podataka za elektrane na vetar i solarne elektrane u glavni registar. Ministarstvo je, shodno propisima, dužno da vrši ažuriranje podataka u glavnom registru bez odlaganja od saznanja razloga za ažuriranje i da datum poslednjeg ažuriranja vidno prikaže na svojoj internet stranici. Pomoćni registar ministarstvo ažurira i objavljuje najmanje na svakih mesec dana.

5.2.1. Podsticajne mere za proizvodnju električne energije iz energije sunčevog zračenja

Podsticajne mere za povlašćene proizvođače električne energije su propisane Zakonom o energetici, Uredbom o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije[148] i obuhvataju: 1) podsticajni period koji traje 12 godina, počevši od dana prvog očitavanja električne energije u solarnoj elektrani, odnosno delu solarne elektrane, posle dana sticanja statusa povlašćenog proizvođača električne energije, osim ako je trajanje podsticajnog perioda drugačije određeno ovom uredbom ili ugovorom o otkupu električne energije; 2) podsticajnu otkupnu cenu[149] po kojoj povlašćeni i privremeni povlašćeni proizvođači prodaju garantovanom snabdevaču odgovarajući iznos proizvedene električne energije tokom ili pre podsticajnog perioda; 3) preuzimanje balansne odgovornosti za mesta primopredaje električne energije povlašćenog proizvođača električne energije tokom podsticajnog perioda, a od strane garantovanog snabdevača; 4) preuzimanje troškova balansiranja povlašćenog proizvođača električne energije tokom podsticajnog perioda od strane garantovanog snabdevača; 5) besplatan pristup prenosnom, odnosno distributivnom sistemu električne energije.

Podsticajne mere za povlašćene proizvođače mogu biti propisane drugim zakonima i propisima kojima se uređuju porezi, carine i druge dažbine, zaštita životne sredine i energetska efikasnost.

Privremeni povlašćeni proizvođač od dana zaključenja ugovora o otkupu električne energije do dana početka podsticajnog perioda, ima pravo na navedene podsticajne mere[150].

Zakonom o energetici[151] i Uredbom o ugovoru o otkupu električne energije[152] bliže su

147 http://mre.gov.rs/doc/registar%2023.06.2016.html

148 Uredba o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije („Sl. glasnik RS", br. 56/16).

149 Podsticajnaotkupnacenajeoblikoperativnedržavnepomoćipovlašćenimiprivremenimpovlašćenimproizvođačimauskladusapravilimadržavnepomoćiradipodsticanjaproizvodnjeelektričneenergijeizobnovljivihizvoraenergijeiizvisokoefikasnekombinovaneproizvodnjeelektričneitoplotneenergije.

150 Član 3. stav 2. Uredbe o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije.

151 Zakonom o energetici su utvrđeni obavezni elementi ugovora o otkupu električne energije: 1) vrsta i instalisana snaga elektrane povlašćenog proizvođača; 2) mesto primopredaje energije u sistem; 3) mesto i način merenja; 4) cena električne energije i način i uslovi promene cene; 5) način i dinamika obračunavanja, fakturisanja i plaćanja; 6) kamata u slučaju neblagovremenog plaćanja; 7) instrumenti obezbeđenja plaćanja; 8) obaveze garantovanog snabdevača u pogledu preuzimanja balansne odgovornosti i povlašćenog proizvođača u pogledu planiranja rada elektrane; 9) podsticajne mere u periodu probnog rada, kada ugovor zaključuje privremeni povlašćeni proizvođač; 10) i drugi elementi u skladu sa podzakonskim aktom Zakona o energetici.

152 Uredba o ugovoru o otkupu električne energije.

propisani sadržina i drugi elementi ugovora o otkupu električne energije. Model ugovora može se naći na internet stranici ministarstva nadležnog za poslove energetike[153].

Uz zahtev za zaključenje ovog ugovora, koji se dostavlja u pisanoj formi, povlašćeni proizvođač dostavlja garantovanom snabdevaču rešenje o sticanju statusa povlašćenog proizvođača, a privremeni povlašćeni proizvođač rešenje o sticanju statusa privremenog povlašćenog proizvođača, kao i druge isprave predviđene ugovorom o otkupu električne energije. Za deo solarne elektrane ne zaključuje se poseban ugovor o otkupu električne energije, nego aneks koji čini sastavni deo ugovora o otkupu električne energije zaključenog za solarnu elektranu kojoj taj deo elektrane pripada.

Garantovani snabdevač je dužan da sa povlašćenim proizvođačem i privremenim povlašćenim proizvođačem zaključi ugovor o otkupu ukupnog iznosa proizvedene električne energije u roku od 30 dana od dana podnošenja zahteva. Povlašćeni proizvođač i privremeni povlašćeni proizvođač ima pravo da raskine ugovor pre isteka podsticajnog perioda o čemu mora pismeno obavestiti garantovanog snabdevača najmanje 30 dana pre dana raskida ugovora. Ugovor raskinut od strane povlašćenog proizvođača, na ovaj način ne može biti ponovo zaključen za istu solarne elektranu povlašćenog proizvođača.

Zakonom o energetici i Uredbom o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije su propisane obaveze povlašćenog proizvođača električne energije: 1) da svu proizvedenu električnu energiju prodaje isključivo garantovanom snabdevaču; 2) vodi evidenciju o utrošenim energentima; 3) dostavlja planove rada garantovanom snabdevaču, ako je instalisana snaga solarne elektrane preko 5 MW i da ispunjava druge obaveze prema garantovanom snabdevaču utvrđene ugovorom o otkupu električne energije; 4) da obavesti ministarstvo nadležno za poslove energetike ako garantovani snabdevač ne ispunjava obaveze iz ugovora o otkupu električne energije; 5) da obavesti ministarstvo o postupanju državnog organa, imaoca javnog ovlašćenja, organa autonomne pokrajine ili organa jedinice lokalne samouprave koje je od uticaja na izvršavanje obaveza ili uživanje prava u vezi sa podsticajnim merama.

Uredbom o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije utvrđene su podsticajne otkupne cene električne energije koje se razlikuju prema vrsti solarne elektrane i prema instalisanoj snazi, kao i maksimalnom efektivnom vremenu rada i to:

153 http://mre.gov.rs/dokumenta-efikasnost-izvori.php

154 Maksimalno efektivno vreme rada elektrane, odnosno dela elektrane je propisano efektivno vreme rada elektrane koje se obračunava za godinu podsticajnog perioda koje odgovara količini proizvedene energije za koju povlašćeni proizvođač električne energije ima pravo na podsticajnu otkupnu cenu.

155 Godina podsticajnog perioda je deo podsticajnog perioda od godinu dana, pri čemu prva godina podsticajnog perioda počinje da teče prvog dana podsticajnog perioda.

Redni broj	Vrsta elektrane	Instalisana snaga P (MW)	Podsticajna otkupna cena (c€/kWh)	Maksimalno efektivno vreme rada[154] (h)
1.	Solarne elektrane	Na objektu do 0,03	14,60 – 80*P	1400 u godini podsticajnog perioda[155]
2.	Solarne elektrane	Na objektu 0,03 – 0,5	12,404 – 6,809*P	
3.	Solarne elektrane	Na zemlji	9	

Istom uredbom utvrđene su maksimalna proizvedena električna energije[156]i otkupne cene[157] električne energije. Potrebno je razlikovati podsticajnu otkupnu cenu od otkupne cene električne energije. Naime ovom uredbom je propisana obaveza povlašćenog proizvođača da svu proizvedenu električnu energiju prodaje isključivo garantovanom snabdevaču, ali ukoliko proizvede više od one količine električne energije za koju je ugovorena podsticajna otkupna cena, na taj deo proizvedene električne energije primenjuju se odredbe po otkupnoj ceni za električnu energiju koju proizvede povlašćeni proizvođač. Prema navedenom pravilu, do isteka svake godine podsticajnog perioda, dodatnu proizvedenu električnu energiju, u odnosu na maksimalnu proizvedenu električnu energiju, garantovani snabdevač kupuje od povlašćenog proizvođača električne energije po otkupnoj ceni koja iznosi 35% podsticajne otkupne cene.

Povlašćeni proizvođači električne energije za rekonstruisane solarne elektrane ostvaruju pravo na podsticajnu otkupnu cenu u iznosu od 70% propisane vrednosti cene, a privremeni povlašćeni proizvođač do početka podsticajnog perioda ostvaruje pravo na podsticajnu otkupnu cenu u iznosu od 50% propisane vrednosti cene.

Podsticajne otkupne cene izražene su u evrocentima po kilovatsatu (c€/kWh) i zaokružuju se na dve decimale.

Uredbom o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije utvrđena je formula po kojoj se vrši redovna godišnja korekcija podsticajnih otkupnih cena zbog inflacije u evro zoni. Ova korekcija se vrši u februaru svake godine, počevši od 2017 godine. Ova uredba važi do 31. decembra 2018. godine. Prelaznim odredbama su utvrđena pravila za povlašćene proizvođače koji su već zaključili ugovor o otkupu električne energije proizvedene iz obnovljivih izvora i zaštita njihovih prava.

Očitavanje električne energije kod povlašćenog proizvođača, koji je zaključio ugovor o otkupu sa garantovanim snabdevačem, svakog prvog u mesecu obavlja, bez naknade, operator prenosnog, odnosno distributivnog sistema i najkasnije do petog u mesecu dostavlja očitane podatke za prethodni mesec povlašćenom proizvođaču i garantovanim snabdevaču. Operator prenosnog, odnosno distributivnog sistema je dužan da pre zaključenja ovog

156 Maksimalna proizvedena električna energija koja se može otkupiti po podsticajnoj otkupnoj ceni izračunava se kao: $E_{el\,max} = P * t_{max}$, gde je: $E_{el\,max}$ – maksimalna proizvedena električna energija za koju povlašćeni proizvođač električne energije ima pravo otkupa od strane garantovanog snabdevača po podsticajnim otkupnim cenama datim u tabeli, izražena u kWh; P – instalisana snaga elektrane, odnosno dela elektrane, izražena u kW; t_{max} – maksimalno efektivno vreme rada dato u tabeli, izraženo u h.

157 Otkupna cena je cena električne energije po kojoj garantovani snabdevač kupuje od povlašćenog proizvođača električne energije dodatno proizvedenu električnu energiju u odnosu na maksimalnu proizvedenu električnu energiju u godini podsticajnog perioda, odnosno kvartalu podsticajnog perioda.

ugovora[158] izvrši očitavanje brojila i da očitane podatke dostavi povlašćenom proizvođaču i garantovanom snabdevaču u roku od tri dana od dana dostavljanja zahteva od strane povlašćenog proizvođača.

Uredbom o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije su propisane brojne odredbe u cilju ostvarivanja pravne sigurnosti svih strana u vezi sa realizacijom podsticajnih mera za proizvodnju električne energije iz obnovljivih izvora.

Pravo na podsticajne mere prestaje gubitkom statusa, otkazom ili raskidom ugovora o otkupu električne energije pod uslovima i na način određen ugovorom o otkupu električne energije i u skladu sa drugim propisanim uslovima. Ovo pravo prestaje nezavisno od volje garantovanog snabdevača i povlašćenog proizvođača električne energije u slučajevima i pod uslovima određenim ugovorom o otkupu električne energije[159].

5.3. Status proizvođača električne energije iz obnovljivih izvora

Pored statusa povlašćenog proizvođača električne energije, statusa privremenog povlašćenog proizvođača električne energije postoji i status proizvođača električne energije iz obnovljivih izvora.

Energetski subjekt može steći status proizvođača električne energije iz obnovljivih izvora (u daljem tekstu: proizvođač iz obnovljivih izvora) za tu solarnu elektranu ako: 1) u procesu proizvodnje električne energije koristi obnovljive izvore energije; 2) je izgrađena i podobna za upotrebu u skladu sa zakonom kojim se uređuje izgradnja objekata; 3) ima obezbeđeno posebno merenje, odvojeno od merenja u drugim tehnološkim procesima, kojim se meri preuzeta i predata električna, odnosno toplotna energija u sistem; 4) ima licencu za obavljanje delatnosti u skladu sa Zakonom o energetici; 5) ispunjava i druge uslove propisane Zakonom o energetici i Uredbom o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

Status proizvođača električne energije iz obnovljivih izvora može steći i fizičko lice koje proizvodi električnu energiju iz obnovljivih izvora samo za jednu solarnu elektranu instalisane snage do 30 kW pod propisanim uslovima. Energetski subjekat i fizičko lice ne mogu istovremeno imati status proizvođača iz obnovljivih izvora i status povlašćenog proizvođača za istu solarnu elektranu.

Zahtev za sticanje statusa proizvođača iz obnovljivih izvora podnosi se ministarstvu nadležnom za poslove energetike na Obrascu O-3[160], zajedno sa dokazima čija je sadržina određena u skladu sa Zakonom o energetici i Uredbom o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

158 Izuzetak od ovog pravila je ukoliko se radi o slučaju kada proizvođač električne energije iz obnovljivih izvora, koji je stekao privremeni status povlašćenog proizvođača i tada zaključio ugovor o otkupu proizvedene električne energije sa odložnim uslovom - sa garantovanim snabdevačem, u kom slučaju je ugovor o otkupu već bio zaključen, pre nego što je objekat bio izgrađen i merni instrument postavljen. U navedenom slučaju se opisano očitavanje brojila vrši po početku primene ugovora, odnosno prestanku dejstva uslova koji je odložio primenu ugovora, a to je sticanje statusa povlašćenog proizvođača električne energije.

159 Član 13. Uredbe o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije.

160 Obrazac O-3, verzija od 16.06.2016. godine, (Zahtev za izdavanje rešenja o sticanju statusa proizvođača električne energije iz obnovljivih izvora energije), www.mre.gov.rs.

Uz zahtev za sticanje statusa proizvođača energije iz obnovljivih izvora, podnose se: 1) za pravno lice, odnosno preduzetnika: izvod o registrovanim podacima (poslovno ime, pravna forma, sedište, delatnost, poreski identifikacioni broj, matični broj); 2) za fizičko lice: fotokopija lične karte, odnosno uverenje o državljanstvu ili fotokopija pasoša, ako je podnosilac strani državljanin; 3) upotrebna dozvola u skladu sa zakonom kojim se uređuje planiranje i izgradnja objekata ili potvrda nadležnog organa da za izgrađenu solarnu elektranu, odnosno deo solarne elektrane nije potrebno pribaviti upotrebnu dozvolu; 4) odobrenje za priključenje solarne elektrane sa šemom mernih uređaja; 5) licenca za obavljanje delatnosti proizvodnje električne energije, u skladu sa Zakonom o energetici; 6) dokaz o uplati administrativne takse[161].

Status proizvođača iz obnovljivih izvora, utvrđuje ministarstvo nadležno za poslove energetike rešenjem u roku od 30 dana od dana podnošenja zahteva.

Protiv rešenja može se izjaviti žalba Vladi u roku od 15 dana od dana prijema rešenja.

Proizvođač električne energije iz obnovljivih izvora ima pravo na garanciju porekla i na pravo prvenstva predaje u prenosnu ili distributivnu elektroenergetsku mrežu, osim u slučaju kada je ugrožena sigurnost snabdevanja ili sigurnost rada prenosnog, odnosno distributivnog sistema[162].

Status proizvođača iz obnovljivih izvora se oduzima ako: 1) je rešenje o sticanju statusa proizvođača električne energije doneto na osnovu neistinitih podataka; 2) ne ispunjava obaveze utvrđene Zakonom o energetici i aktima donetim na osnovu ovog zakona; 3) proizvodi električnu energiju suprotno uslovima pod kojima je stekao status proizvođača električne energije iz obnovljivih izvora; 4) su akti na osnovu kojih je stekao status proizvođača iz obnovljivih izvora pravnosnažno ukinuti, poništeni ili stavljeni van snage.

Status proizvođača iz obnovljivih izvora energije prestaje na dan konačnosti rešenja o oduzimanju statusa povlašćenog proizvođača u slučaju oduzimanja tog statusa, ili na dan prestanka važenja rešenja na osnovu koga je taj status stečen, kao i na osnovu izjave proizvođača da mu se ukine rešenje o sticanju statusa proizvođača električne energije iz obnovljivih izvora.

161 Član 25. Uredbe o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije.

162 Član 162. stav 1. Zakona o energetici.

6.

POSEBNI POSTUPCI

6. POSEBNI POSTUPCI

6.1. Garancija porekla[163]

Garancija porekla je dokument koji ima isključivu funkciju da dokaže krajnjem kupcu da je dati udeo ili količina električne energije proizvedena iz obnovljivih izvora energije. Garancija porekla se izdaje isključivo proizvođaču električne energije iz obnovljivih izvora energije, koji je stekao status proizvođača energije iz obnovljivih izvora[164].

Garancija porekla za energiju proizvedenu iz obnovljivih izvora energije sadrži naročito: 1) naziv, lokaciju, vrstu i snagu proizvodnog kapaciteta; 2) datum puštanja u rad energetskog objekta, odnosno dela energetskog objekta; 3) podatke o operatoru prenosnog sistema nadležnog za izdavanje garancije porekla; 4) datum početka i kraja proizvodnje energije za koju se izdaje garancija porekla; 5) podatak iz pismene izjave podnosioca zahteva da li je za izgradnju proizvodnog kapaciteta bila korišćena investiciona podrška iz nacionalnih sredstava i vrsta te podrške; 6) podatak da li je korišćena podsticajna otkupna cena energije; 7) datum i zemlju izdavanja garancije porekla; 8) dodeljeni jedinstveni identifikacioni broj garancije porekla.

Podnosilac zahteva za izdavanje garancije porekla je energetski subjekt koji je stekao status proizvođača energije iz obnovljivih izvora.

Zahtev za izdavanje garancije porekla podnosi se samo za deo isporučene električne energije proizvedene iz obnovljivih izvora energije.

Zahtev za izdavanje garancije porekla podnosi se sa korisničkog računa u registru garancija porekla.

O zahtevu za izdavanje garancije porekla odlučuje operator prenosnog sistema.

Garancija porekla se izdaje samo za onaj deo električne energije koji je proizveden iz obnovljivih izvora energije, odnosno koji je proporcionalan udelu električne energije proizvedene iz obnovljivih izvora energije u ukupno proizvedenoj električnoj energiji.

Za dan početka važenja garancije porekla usvaja se poslednji dan obračunskog perioda proizvodnje na koji se garancija porekla odnosi.

Garancija porekla se izdaje samo jednom za jediničnu količinu električne energije od 1MWh proizvedene u određenom periodu.

Garancija porekla važi godinu dana od poslednjeg dana perioda proizvodnje za koju se izdaje.

Garancija porekla je prenosiva. Prenos garancija porekla sa jednog na drugi korisnički račun vrši se na principima transparentnosti i nediskriminacije. Ovaj prenos vrši operator prenosnog sistema na zahtev koji dostavlja vlasnik garancije porekla.

Garancija porekla prestaje da važi kada: 1) vlasnik odluči da je iskoristi; 2) istekne rok važenja; 3) operator prenosnog sistema povuče garanciju.

Vlasniku garancije porekla koji je odlučio da iskoristi garanciju porekla i podneo zahtev za iskorišćenje, operator prenosnog sistema izdaje izjavu o iskorišćenju u roku od osam dana.

163 Pravilnik o garanciji porekla električne energije proizvedene iz obnovljivih izvora energije.
164 Član 82. Zakon o energetici. Vidi više u fusnoti 150. ovog Vodiča.

Garancija porekla se može iskoristi samo jednom.

Garancije porekla koje su prestale da važe evidentiraju se u registru.

Operator prenosnog sistema formira i vodi registar garancija porekla u elektronskom obliku i u skladu sa Zakonom, Pravilnikom o garanciji porekla električne energije proizvedene iz obnovljivih izvora energije i međunarodnim standardom evropskog sistema energetske sertifikacije.

Potrebno je ukazati da garancija porekla izdata u drugim državama važi pod uslovima reciprociteta i u Republici Srbiji i u skladu sa potvrđenim međunarodnim ugovorom.

6.2. Sticanje prava na korišćenje prirodnog bogatstva

Zakonom o javno-privatnom partnerstvu i koncesijama je utvrđeno da se i koncesijom može steći pravo na komercijalno korišćenje prirodnog bogatstva.[165]

Postupak dobijanja koncesije je detaljno uređen Zakonom o javno-privatnom partnerstvu i koncesijama. U nekim elementima procedure upućuje se na Zakon o javnim nabavkama. Pravni osnov koncesije je ugovor o koncesiji. Koncesija se može dati najkraće na pet, a najduže na pedeset godina[166], osim ako nekim drugim zakonom nije drugačije utvrđeno.

Propisano je da se uređivanje uslova i postupka zaključivanja ugovora o koncesijama zasniva na načelima: 1) zaštite javnog interesa, 2) efikasnosti, 3) transparentnosti, 4) jednakog i pravičnog tretmana, 5) slobodne tržišne utakmice, 6) proporcionalnosti, 7) zaštite životne sredine, 8) autonomije volje i 9) ravnopravnosti ugovornih strana. Prilikom sprovođenja postupka davanja koncesija, davalac koncesije dužan je da, u odnosu na sve učesnike u postupku, primenjuje i: 1) načelo slobode kretanja robe, 2) načelo slobode pružanja usluga, 3) načelo zabrane diskriminacije i 4) načelo uzajamnog priznavanja.

6.2.1. Postupak davanja koncesije

Postupak davanja koncesije vrši javno telo[167],.

Svaki javni ugovor (pa i javni ugovor sa elementima koncesije - ugovor o koncesijama) dodeljuje sa u postupku koji se pokreće objavljivanjem javnog poziva na srpskom jeziku i na stranom jeziku koji se uobičajeno koristi u međunarodnoj trgovini. Zakonom o javno-privatno partnerstvu i koncesijama[168] uređen je postupak davanja koncesija, rok za prijem ponuda (koji iznosi najmanje 60 dana)[169], poverljivost i tajnost podataka iz dostavljene ponude i sl.

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165 Zakonom o javno-privatnom partnerstvu i koncesijama („Sl. glasnik RS" br. 88/11 i 15/16), utvrđeno je da je koncesija, ugovorno javno-privatno partnerstvo sa elementima koncesije u kome je javnim ugovorom uređeno komercijalno korišćenje prirodnog bogatstva, odnosno dobra u opštoj upotrebi koja su u javnoj svojini ili obavljanja delatnosti od opšteg interesa, koje nadležno javno telo ustupa domaćem ili stranom licu, na određeno vreme, pod posebno propisanim uslovima, uz plaćanje koncesione naknade od strane privatnog, odnosno javnog partnera, pri čemu privatni partner snosi rizik vezan za komercijalno korišćenje predmeta koncesije.

166 Opšti rok za koncesije je utvrđen Zakonom o javno-privatnom partnerstvu i koncesijama.

167 Javno telo je, shodno Zakonu o javno-privatnom partnerstvu i koncesijama: 1) državni organ, organizacija, ustanova ili drugi direktni ili indirektni korisnik budžetskih sredstava u smislu zakona kojim se uređuje budžetski sistem i budžet, kao i organizacija za obavezno socijalno osiguranje; 2) javno preduzeće; 3) pravno lice koje obavlja i delatnost od opšteg interesa, ukoliko je ispunjen neki od sledećih uslova: 3.1) da više od polovine članova organa upravljanja tog pravnog lica čine predstavnici javnog tela; 3.2) da više od polovine glasova u organu tog pravnog lica imaju predstavnici javnog tela; 3.3) da javno telo vrši nadzor nad radom tog pravnog lica; 3.4) da javno telo poseduje više od 50% akcija, odnosno udela u tom pravnom licu; 3.5) da se više od 50 % finansira iz sredstava javnog tela; 4) pravno lice osnovano od javnog tela, a koje obavlja i delatnost od opšteg interesa i koje ispunjava najmanje jedan od uslova iz prethodne tačke.

168 Zakon o javno-privatnom partnerstvu i koncesijama se primenjuje na sve javne ugovore koji nisu izuzeti i čija je procenjena vrednost bez poreza na dodatu vrednost (PDV) jednaka ili veća od donjih graničnih vrednosti ispod kojih javna tela nisu u obavezi da primenjuju zakon kojim se uređuju javne nabavke, određenih zakonom kojim se uređuje godišnji budžet Republike Srbije.

169 Član 37. Zakona o javno-privatnom partnerstvu i koncesijama.

6.2.2. Postupak utvrđivanja koncesionog akta

Prethodni postupak postupku davanja koncesije je utvrđivanje koncesionog akta.

Ovaj postupak započinje postupkom utvrđivanja predloga koncesionog akta. Javno telo, pre sačinjavanja predloga za donošenje koncesionog akta imenuje stručni tim za izradu konkursne dokumentacije koji vrši: 1) procenu vrednosti koncesije; 2) izrađuje studiju opravdanosti davanja koncesija i 3) preduzimanje svih ostalih radnji koje prethode postupku davanja koncesije. Predlog za donošenje koncesionog akta za dodelu koncesije za korišćenje resursa vetra dostavlja se Vladi.

Nakon usvajanja predloga za donošenje koncesionog akta, predloženi koncesioni akt postaje koncesioni akt, koji sadrži sve elemente predloga koncesionog akta, i to: 1) predmet koncesije; 2) razloge za davanje koncesije; 3) eventualno oduzimanje poverenih poslova i oduzimanje prava korišćenja imovine za obavljanje poverenih poslova; 4) podatke o uticaju koncesione delatnosti na životnu sredinu, na infrastrukturu i druge privredne oblasti, na efikasno funkcionisanje tehničko-tehnoloških sistema; 5) minimalne tehničke, finansijske i iskustvene kvalifikacije koje učesnik u postupku mora da ispunjava da bi mu se omogućilo učestvovanje u postupku izbora koncesionara i pregovaranja; 6) rok trajanja koncesije, uključujući obrazloženje predloženog roka; 7) podatke o potrebnim novčanim i drugim sredstvima i dinamici njihovog ulaganja, način plaćanja, davanja garancija ili drugih sredstava obezbeđenja za izvršavanje koncesionih obaveza, prava i obaveze koncesionara prema korisnicima usluga koje su predmet koncesije i pitanja vezana za podnošenje prigovora od strane tih korisnika, pitanja uslova i načina vršenja nadzora, i cene i opšte uslove za korišćenje dobara i obavljanje delatnosti; 8) podatke o naknadama koje plaćaju koncedent i koncesionar[170]; 9) ocenu o potrebnom broju radnih mesta i kvalifikovane radne snage u vezi sa izvršavanjem koncesije, ukoliko se predlaže da to bude elemenat koncesionog akta.

Posebno značajnu ulogu ima stručni tim javnog tela, koji, pored aktivnosti na pripremi koncesionog akta, u postupku davanja koncesije ima i sledeće zadatke: 1) pružanje stručne pomoći javnom telu pri pripremi potrebnih analiza, odnosno studija opravdanosti davanja koncesije, pri pripremi i izradi uslova i konkursne dokumentacije, pravila i uslova za ocenu ponuđača i primljenih ponuda, kao i kriterijuma za izbor ponude; 2) pregledanje i ocena pristiglih ponuda; 3) utvrđivanje predloga odluke o izboru najpovoljnije ponude za davanje koncesije ili predloga odluke o poništaju postupka davanja koncesije, i obrazloženje tih predloga; 4) obavljanje ostalih poslova potrebnih za realizaciju postupka davanja koncesije. Stručni tim za koncesije, o svom radu vodi zapisnik i sačinjava druga dokumenta koja potpisuju svi članovi stručnog tima.

Javno telo u izradi studije opravdanosti davanja koncesije posebno uzima u obzir javni

170 Nije jasno kakvu naknadu u vezanu za davanje koncesije može da plaća koncedent.

interes, uticaj na životnu sredinu, uslove rada, zaštitu prirode i kulturnih dobara, finansijske efekte koncesije na budžet Republike Srbije.

6.2.3. Postupak zaključivanja ugovora o koncesiji

Postupak davanja koncesije počinje danom objavljivanja javnog poziva u "Službenom glasniku Republike Srbije", a okončava se donošenjem konačne odluke o izboru najpovoljnije ponude ili donošenjem konačne odluke o poništaju postupka davanja koncesije.

Konkursna dokumentacija sadrži: 1) oblik ponude, 2) sadržaj ponude, 3) rok važnosti ponude, 4) opis predmeta koncesije (tehničke specifikacije), 5) nacrt javnog ugovora o koncesiji, 6) uslove i dokaze koje su ponuđači obavezni da dostave uz ponudu u svrhu dokazivanja njihove osposobljenosti, 7) zahtev za dostavu pune liste povezanih društava, 8) rok za donošenje odluke o izboru najpovoljnije ponude, kao i 9) sve ostale zahteve koje ponuđač mora da ispuni.

Javni poziv mora da sadrži sledeće podatke: 1) kontakt podatke davaoca koncesije; 2) predmet koncesije, uključujući prirodu i obim koncesione delatnosti, mesto obavljanja koncesione delatnosti i rok trajanja koncesije; 3) rok za predaju ponuda, adresu na koju se dostavljaju ponude, jezik i pismo na kojem ponude moraju biti sačinjene; 4) lične, stručne, tehničke i finansijske uslove koje moraju da zadovolje ponuđači, kao i isprave kojima se dokazuje njihovo ispunjenje; 5) kriterijume za izbor najpovoljnije ponude; 6) datum dostavljanja obaveštenja o ishodu postupka; 7) naziv i adresu tela nadležnog za rešavanje po zahtevima za zaštitu prava, kao i podatke o rokovima za njihovo podnošenje.

Pre početka postupka davanja koncesije, davalac koncesije je dužan da u konkursnoj dokumentaciji i javnom pozivu navede obavezu ponuđača da dostavi bankarsku garanciju (u daljem tekstu: garancija) za ozbiljnost ponude. Davalac koncesije dužan je da utvrdi visinu garancije za ozbiljnost ponude u apsolutnom iznosu. Garancija za ozbiljnost ponude ne može biti viša od 5% procenjene vrednosti koncesije.[171]

Kriterijumi na kojima davalac koncesije zasniva izbor najpovoljnije ponude su: 1) u slučaju ekonomski najpovoljnije ponude sa stanovišta davaoca koncesije, kriterijumi vezani za predmet koncesije, kao što su: kvalitet, visina naknade, cena, tehničko rešenje, estetske, funkcionalne i ekološke osobine, cena pružene usluge prema krajnjim korisnicima, operativni troškovi, ekonomičnost, servisiranje nakon predaje i tehnička pomoć, datum isporuke i rokovi isporuke ili rokovi završetka radova ili 2) najviša ponuđena koncesiona naknada.

Davalac koncesije donosi odluku o izboru najpovoljnije ponude za koju će ponuditi potpisivanje javnog ugovora o koncesiji. Davalac koncesije ne može potpisati javni ugovor o koncesiji pre isteka perioda mirovanja, koje iznosi 15 dana od dana dostavljanja odluke o izboru najpovoljnije ponude svakom ponuđaču.

171 Ostale osobine garancije za ozbiljnost ponude utvrđene su članom 38. Zakona o javno-privatnom partnerstvu i koncesijama.

Rok za donošenje odluke o izboru najpovoljnije ponude mora biti primeren, a počinje da teče danom isteka roka za dostavljanje ponuda. Ako u konkursnoj dokumentaciji nije navedeno drugačije, rok za donošenje odluke o izboru najpovoljnije ponude iznosi 60 dana.

Odluka o izboru najpovoljnije ponude sadrži: 1) naziv davaoca koncesije sa brojem i datumom donošenja odluke; 2) naziv ponuđača; 3) predmet koncesije; 4) prirodu, obim i mesto obavljanja koncesione delatnosti; 5) rok trajanja koncesije; 6) posebne uslove koje treba da ispunjava koncesionar tokom trajanja koncesije; 7) iznos koncesione naknade ili osnov za utvrđivanje iznosa koncesione naknade koju će plaćati koncesionar ili koncedent[172]; 8) rok u kojem je najpovoljniji ponuđač obavezan da potpiše javni ugovor o koncesiji sa davaocem koncesije; 9) rok u kome davalac koncesije može pozvati druge ponuđače da potpišu ugovor o koncesiji u slučaju nepotpisivanja ugovora od strane najpovoljnijeg ponuđača, kao i obavezu produženja roka obaveznosti ponude i roka bankarske garancije za ozbiljnost ponude; 10) obrazloženje razloga za izbor ponuđača; 11) pouku o pravnom leku; 12) potpis odgovornog lica i pečat davaoca koncesije.

6.2.4. Ugovor o koncesiji

Ugovorom o koncesiji se uređuju prava i obaveze države kao koncedenta i korisnika koncesije (koncesionara). Ugovorom se obavezno uređuje vreme, mesto i način korišćenja koncesije i obaveza plaćanja koncesione naknade.

Ukoliko je koncesija data većem broju lica, ugovor o koncesiji zaključuje svaki od koncesionara ili lice ovlašćeno od tih koncesionara, po specijalnom punomoćju.

Prilikom određivanja odredaba i uslova javnog ugovora, javni partner uređuje sledeća pitanja: 1) karakter i obim radova koje treba da izvrši i/ili usluga koje treba da obezbedi privatni partner i uslove za njihovo obezbeđenje, pod uslovom da su navedeni u javnom pozivu; 2) raspodela rizika između javnog i privatnog partnera; 3) odredbe o minimalnom zahtevanom kvalitetu i standardu usluga i radova u interesu javnosti ili korisnika usluga ili javnih objekata, kao i posledice neispunjenja ovih zahteva u pogledu kvaliteta, pod uslovom da ne predstavljaju povećanje ili smanjenje naknade privatnom partneru iz tačke 9) ovog stava; 4) obim isključivih prava privatnog partnera, ako postoje; 5) eventualnu pomoć koju javni partner može pružiti privatnom partneru za dobijanje dozvola i odobrenja potrebnih za realizaciju koncesije; 6) zahteve u vezi sa društvom za posebne namene[173] u pogledu: pravne forme, osnivanja, minimalnog kapitala i minimalnih drugih sredstava ili ljudskih resursa, strukture akcionara,

172 Nije jasno kakvu naknadu u postupku koncesije može da plaća koncedent.

173 Društvo za posebne namene, shodno Zakonu o javno-privatnom partnerstvu i koncesijama je privredno društvo koje može osnovati privatni, odnosno javni partner za potrebe zaključenja javnog ugovora, odnosno za potrebe realizacije projekta javno-privatnog partnerstva.

organizacione strukture i poslovnih prostorija kao i poslovnih aktivnosti ovog društva; 7) vlasništvo nad sredstvima koja se odnose na projekat i po potrebi, obaveze ugovornih strana u pogledu sticanja projektnih sredstava i eventualno potrebnih službenosti; 8) visina i način izračunavanja koncesione naknade, ako je ima; 9) naknada privatnom partneru, bez obzira da li se sastoji od tarifa ili naknada za obezbeđene objekte ili usluge, način i formula za utvrđivanje, periodično usklađivanje i prilagođavanje tih tarifa ili naknada, eventualne isplate koje javni partner treba da izvrši privatnom partneru; 10) mehanizmi za povećanje ili smanjenje naknade (bez obzira na pravni oblik) privatnom partneru u slučaju lošeg kvaliteta njegovih usluga/objekata; 11) postupak koji javni partner koristi za razmatranje i odobravanje projekata, planova izgradnje i specifikacija, kao i postupci za testiranje i konačnu inspekciju, odobrenje i prijem infrastrukturnog objekta kao i izvršenih usluga, ako je potrebno; 12) postupci za izmene projekata, planova izgradnje i specifikacija ako ih jednostrano utvrđuje javni partner i postupci za saglasnost o eventualnom produženju rokova i/ili povećanju naknade (uključujući troškove finansiranja); 13) obim obaveze privatnog partnera da zavisno od slučaja obezbedi izmenu objekata ili usluga u toku trajanja ugovora da bi se udovoljilo izmenjenoj stvarnoj tražnji za uslugom, njenom kontinuitetu i njenom pružanju pod suštinski istim uslovima svim korisnicima, kao i posledice toga na naknadu (i troškove finansiranja) za privatnog partnera; 14) mogući obim izmena javnog ugovora nakon njegovog zaključenja, lica koja imaju pravo da to zahtevaju i mehanizam za usaglašavanje tih izmena; 15) eventualna prava javnog partnera da privatnom partneru odobri zaključenje najvažnijih podizvođačkih ugovora ili ugovora sa zavisnim društvima privatnog partnera ili sa drugim povezanim licima; 16) jemstva koja treba da obezbedi privatni partner ili javni partner (uključujući jemstva javnog partnera finansijerima); 17) pokriće osiguranjem koje treba da obezbeđuje privatni partner; 18) raspoloživi pravni lekovi u slučaju da bilo koja ugovorna strana ne izvrši svoje ugovorne obaveze; 19) mera u kojoj bilo koja ugovorna strana može biti izuzeta od odgovornosti za neizvršenje ili kašnjenje u ispunjenju ugovornih obaveza usled okolnosti realno van njene kontrole (viša sila, promena zakona i sl.); 20) rok trajanja javnog ugovora i prava i obaveze ugovornih strana nakon njegovog isteka (uključujući i stanje u kojem se imovina mora predati javnom partneru), postupak produženja ugovorenog roka uključujući njegove posledice na finansiranje projekta; 21) kompenzacija i prebijanje potraživanja; 22) posledice štetne promene propisa; 23) razlozi i posledice prevremenog raskida (uključujući minimalan iznos koji se mora isplatiti javnom ili privatnom partneru), ugovorne kazne i odgovarajuće odredbe predviđene u tački 19) ovog stava; 24) eventualna ograničenja odgovornosti ugovornih strana; 25) svi sporedni ili povezani ugovori koje treba zaključiti, uključujući i one namenjene lakšem finansiranju troškova vezanih za projekat, kao i efekte tih ugovora na javni ugovor. To naročito obuhvata posebne odredbe kojima se javnom partneru dozvoljava da zaključi ugovor sa finansijerima privatnog partnera i da obezbedi prava na prenos javnog ugovora na lice koje navedu finansijeri u određenim okolnostima; 26) merodavno pravo

i mehanizam za rešavanje sporova; 27) okolnosti pod kojima javni partner ili određeno treće lice može (privremeno ili na drugi način) preuzeti vođenje objekta ili drugu funkciju privatnog partnera kako bi se obezbedilo delotvorno i neprekidno vršenje usluge i/ili objekata koji su predmet ugovora u slučaju ozbiljnih propusta privatnog partnera u izvršavanju njegovih obaveza; 28) oporezivanje i fiskalna pitanja - ako postoje.

Javni ugovor može biti zaključen po dobijanju saglasnosti Vlade. Po dobijanju ove saglasnosti, javni partner mora odabranom najpovoljnijem ponuđaču da ponudi potpisivanje javnog ugovora o koncesiji u roku koji je odredio odlukom o izboru najpovoljnije ponude.

Koncesionar, odnosno koncedent[174] je dužan da plaća novčanu naknadu za koncesiju u iznosu i na način kako je to uređeno javnim ugovorom o koncesiji, osim ako plaćanje naknade za koncesiju nije ekonomski opravdano. Koncesiona naknada određuje se u zavisnosti od vrste prirodnog bogatstva, vrste delatnosti, roka trajanja koncesije, poslovnog rizika i očekivane dobiti, opremljenosti i površini dobra u opštoj upotrebi, odnosno javnog dobra.

Javni ugovor može biti finansiran od strane privatnog partnera kroz kombinaciju direktnih ulaganja u kapital ili putem zaduženja, uključujući bez ograničenja strukturirano ili projektno finansiranje i sl. obezbeđeno od strane međunarodnih finansijskih institucija, banaka, odnosno trećih lica (u daljem tekstu: finansijeri).

Uz prethodnu saglasnost javnog partnera, privatni partner biće ovlašćen da dodeli, optereti hipotekom, založi, u periodu i obimu koji je u skladu sa ovim Zakonom o javno privatnom-partnerstvu i koncesijama, odnosno zakonom kojim se uređuje javna svojina, bilo koje svoje pravo, odnosno obavezu iz javnog ugovora ili drugu imovinu vezanu za projekat, u korist finansijera, a radi obezbeđivanja plaćanja bilo kog nastalog ili budućeg potraživanja u vezi sa izgradnjom i finansiranjem, odnosno refinansiranjem koncesije.

Na zahtev finansijera i privatnog partnera, javni partner može prihvatiti da dâ određena razumno zahtevana obezbeđenja i prihvati preuzimanje određenih odgovornosti koje su neophodne privatnom partneru u vezi sa bilo kojom obavezom iz javnog ugovora, ako takvi zahtevi ne narušavaju raspodelu projektnih rizika definisanih u već zaključenom ugovoru.
Potrebno je naglasiti da je status ugovornih strana u koncesiji zaštićen na način što je propisano da u slučaju promene propisa nakon zaključenja javnog ugovora koje pogoršavaju položaj privatnog ili javnog partnera, ugovor se može izmeniti bez ograničenja, a u obimu koji je neophodan da se privatni, odnosno javni partner dovede u položaj u kome je bio u momentu zaključenja javnog ugovora, s tim da rok trajanja javnog ugovora ni u kom slučaju ne može biti duži od pedeset godina, uz mogućnost produženja ugovorenog perioda uz izbor privatnog partnera na način i u postupku propisanom Zakonom o javno-privatnom partnerstvu.[175]

174 Pretpostavka je da se ovde radi o tehničkoj grešci u samom tekstu zakona, jer koncedent ne bi trebalo da plaća koncesionu naknadu sam sebi.
175 Član 52. Zakona o javno-privatnom partnerstvu i koncesijama.

Relevantni zakoni, strateška dokumenta, planovi i podzakonska akta

Zakoni

1. Zakon o energetici, Sl. glasnik RS, br. 145/14
2. Zakon o prostornom planu Republike Srbije, Sl. glasnik RS, br. 88/10
3. Zakon o zaštiti životne sredine, Sl. glasnik RS, br. 135/04, 36/09 i 14/16
4. Zakon o integrisanom sprečavanju i kontroli zagađenja, Sl. glasnik RS, br. 135/04 i 25/15
5. Zakon o planiranju i izgradnji, Sl. glasnik RS, br. 72/09, 81/09, 64/10 - odluka US, 24/11, 121/12, 42/13 - odluka US, 50/13 - odluka US, 98/13 - odluka US, 132/14 i 145/14
6. Zakon o šumama, Sl. glasnik RS, br. 30/10 i 93/12
7. Zakon o vodama, Sl. glasnik RS, br. 30/10 i 93/12
8. Zakon o zaštiti prirode, Sl. glasnik RS, br. 36/09, 88/10, 91/10 i 14/16
9. Zakon o zaštiti vazduha, Sl. glasnik RS, br. 36/09 i 10/13
10. Zakon o proceni uticaja na životnu sredinu, Sl. glasnik RS, br. 135/04 i 36/09
11. Zakon o strateškoj proceni uticaja na životnu sredinu, Sl. glasnik RS, br. 135/04 i 88/10
12. Zakon o opštem upravnom postupku, Sl. glasnik RS, br. 18/16
13. Zakon o javno-privatnom partnerstvu i koncesijama, Sl. glasnik RS, br. 88/11 i 15/16

Strateški dokumenti i planovi

1. Strategija razvoja energetike Republike Srbije, Sl. glasnik RS, br. 101/15
2. Nacionalni akcioni plan za obnovljive izvore energije, Sl. glasnik RS br. 53/13

Uredbe

1. Uredba o uslovima i postupku sticanja statusa povlašćenog proizvođača električne energije, privremenog povlašćenog proizvođača i proizvođača električne energije iz obnovljivih izvora energije, Sl. glasnik RS, br. 56/16
2. Uredba o utvrđivanju Liste projekata za koje je obavezna procena uticaja i Liste projekata za koje se može zahtevati procena uticaja na životnu sredinu, Sl. glasnik RS, br. 114/08
3. Uredba o režimima zaštite, Sl. glasnik RS, br. 31/12
4. Uredba o lokacijskim uslovima, Sl. glasnik RS, br. 35/15
5. Uredba o uslovima isporuke i snabdevanja električnom energijom, Sl. glasnik RS, br. 63/13
6. Uredba o podsticajnim merama za proizvodnju električne energije iz obnovljivih izvora i iz visokoefikasne kombinovane proizvodnje električne i toplotne energije, Sl. glasnik RS, br. 56/16
7. Uredba o ugovoru o otkupu električne energije, Sl. glasnik RS, br. 56/16
8. Uredba o naknadi za podsticaj povlašćenih proizvođača električne energije, Sl. glasnik RS, br. 12/16
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CONSTRUCTION OF PLANTS AND ELECTRICITY GENERATION FROM PHOTOVOLTAIC PLANTS IN THE REPUBLIC OF SERBIA

Guide for investors

Contents

Foreword

The United Nations Development Programme (UNDP), acting as an implementing agency of the Global Environment Facility (GEF) is implementing the GEF funded project "Reducing Barriers to Accelerate the Development of Biomass Markets in Serbia" in close partnership with the Ministry of Mining and Energy and the Ministry of Agriculture and Environmental Protection of the Republic of Serbia.

The objective of the Biomass Project is to increase the share of energy from renewable sources in the energy mix of Serbia, namely the share of biomass in power generation.
One of project activities is focused on enhancing the capacity of all relevant stakeholders to develop, finance, construct and operate bankable biomass renewable energy projects. To that end an update and revision of six existing, yet outdated guides for investors in renewable energy facilities has been performed:

1. CONSTRUCTION OF PLANTS AND ELECTRICITY/HEAT GENERATION FROM BIOMASS IN THE REPUBLIC OF SERBIA
2. CONSTRUCTION OF FACILITIES AND ELECTRIC POWER GENERATION IN SMALL HYDROPOWER PLANTS IN THE REPUBLIC OF SERBIA
3. CONSTRUCTION OF PLANTS AND ELECTRICITY GENERATION IN WIND POWER PLANTS IN THE REPUBLIC OF SERBIA
4. CONSTRUCTION OF PLANTS AND ELECTRICITY/HEAT GENERATION FROM HYDRO-GEOTHERMAL SOURCES IN THE REPUBLIC OF SERBIA
5. CONSTRUCTION OF PLANTS AND ELECTRICITY GENERATION IN WIND POWER PLANTS IN THE REPUBLIC OF SERBIA
6. CONSTRUCTION OF SOLAR HEATING SYSTEMS IN THE REPUBLIC OF SERBIA

All guides are bilingual and, except for one, were delivered in two versions. Six detailed guides describe in details the comprehensive procedure for constructing the energy facilities and performing economic activity of energy generation from renewable sources. Detailed guides are intended primarily to investors and project developers, but also to officials in different competent institutions since the legal procedure is cross-sectoral. In five less detailed guides the comprehensive matter is described in simpler and illustrative manner with an idea to get this topic closer to the wide range of stakeholders.

The objective of the guides is to encourage and assist the investors interested in the Serbian renewable energy sector, but also to identify through thorough analysis weakness and inconsistencies of the procedure and to encourage competent institutions to perform legal and institutional improvements. We sincerely hope that the guides will trigger constructive dialog between the numerous stakeholders and thus contribute to their better awareness and mutual understanding, which ultimately should result in favorable environment for investments in renewable energy.

1

INTRODUCTION

1. INTRODUCTION[1]

1.1 The concept of plants utilizing solar energy

Energy from renewable sources is energy generated from non-fossil energy sources such as: watercourses, biomass, wind, solar energy, biogas, landfill gas, gas from municipal and wastewater treatment plants and sources of geothermal energy.[2] Utilization of such sources contributes to more efficient exploitation of own resources for power generation, reduction of greenhouse gases emissions, reduction of import of fossil fuels, development of local industry, and creation of new jobs.

Facilities utilizing the energy of solar radiation in order to perform energy generation activity are solar energy plants (hereinafter: plants or solar energy plants). In view of technological development it is possible to install multiple photovoltaic solar collectors, connect them and generate electricity in order to perform energy generation activity.

Solar plants operate on the basis of photovoltaic effect, due to which under the influence of solar radiation solar cells generate direct voltage and power. By means of invertors, the direct current and power are transformed into alternate form and thus feed it to the energy network. Energy generating plants which, in the process of generating electricity in single generating facilities utilize solar energy of installed capacity not exceeding 10 MW, provided that they fulfill certain requirements, can acquire the status of privileged producer of electricity[3], preliminary privileged producer, and producer of electricity from renewable sources.

The average solar radiation in Serbia is by about 40% higher than the European average, but despite this the utilization of solar energy lacks far behind the countries of the European Union. Creating conditions for the development and functioning of a sustainable market of photovoltaic cells is of great significance for the economy and preservation of the environment in Serbia.

Solar radiation energy reaches the surface of the Earth and the potentially usable solar radiation amounts to about 1.9×10^8 TWh (190 million terawatt hours) annually[4]. This energy is about 170 times greater than the total reserves of coal world-wide and, when compared to the energy needs of mankind, which amount to 1.3×10^5 TWh (130 thousand terawatt hours) annually[5], it means that the solar energy reaching the surface of the Earth during only 6 hours would be sufficient to meet all global needs at annual level. In order to better understand these values, it could be mentioned that an average household in some of the most developed countries of the world uses annually about 10,000 kWh electricity and it would take about 100,000 years to use up 1 TWh.

1 It should be underlined that this Guide refers in general terms to plants utilizing solar energy for electricity generation and that it describes procedures towards competent authorities and institutions, but that certain elements of these procedures, as well as enforcement of certain procedures depend on the size of the structure, the site where the structure is constructed, the specific power generation technology and other characteristics of the structure itself. This Guide is compiled in accordance with the regulations prevailing in the Republic of Serbia as of 1 July 2016.

2 Article 2, item 47) of the Energy Law ("Official Gazette of RS", No. 145/14).

3 For more details on privileged producers see Chapter 6 of this Guide.

4 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, December 2009

5 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, December 2009

About 37% of the global demand for energy is met by generation of electricity which in 2008 amounted to 17,000 TWh[6]. If this energy were to be generated by systems which convert the energy of solar radiation to electricity, of modest annual output capacity of 100 kWh per square meter, it would take a surface of 150 x 150 km^2 in order to absorb the solar energy[7]. A great part of this absorption surface could be installed on rooftops and walls of structures and thus would not require additional ground surfaces.

The surface of ground necessary for installation of photovoltaic panels depends on a number of factors: the specific technological solution used, the geographical location, the installed capacity of photovoltaic panels, the inclination of terrain, and the manner of installation (specifically, if the panels are fixed or whether there is a Sun tracking system involved), etc.

Having in mind the development of the technology intended for production of photovoltaic panels, at the time of writing this Guide, the following information is available: the panels which used to be utilized of 250 Wp, of dimensions (992 x 1650) mm, is now available with the capacity of 265 Wp, with the same panel dimensions. These panels require the surface for installation onto the ground structure of 4.5 - 5 m^2. In the current market, there are currently popular panels of capacity from 310 Wp to 320 Wp, of dimensions (982 x 1954) mm. These panels require the surface for installation onto the ground structure of 5.3 – 5.9 m^2. In other words, thanks to the dynamic technological development for photovoltaic panels, there is a resulting increase of installed capacity per unit of surface needed for installation compared to previous generation of panels, meaning that currently the same surface enables installation of greater installed capacity. For comparison purposes let us recall that the relevant data two years ago was as follows: approximately, 1 MW of installed power required about 1.7 - 2 ha of land. This means that the ratio at that time was 1:2, although the ratio of 1:3 was also sustainable in practice, and 1 MW of installed power required up to 3 hectares of land. Apart from increased capacity, which is certainly the most significant factor for photovoltaic panels, research is underway to increase flexibility and efficiency while also reducing prices.

The solar radiation energy is sufficient for the production of the average of 1,700 kWh electricity per year per square meter of land, provided that the greater the solar radiation at a certain point the greater is also the generated energy. Tropical regions in this respect are more favorable than others with more moderate climate. Medium radiation in Europe is about 1,000 kWh per square meter while, for comparison purposes, in the Middle East it is about 1,800 kWh.

The energy generation potential of solar radiation is by about 30% higher in Serbia than in Central Europe, and the intensity of solar radiation is among the highest in Europe. The average daily energy of global radiation for flat surfaces during the winter period ranges from 1.1 kWh/m^2 in the north and 1.7 kWh/m^2 in the south, while for the summer period it ranges from 5.9 kWh/m^2 in the north to 6.6 kWh/m^2 in the south. For comparison purposes, the average value of global radiation for the territory of Germany is about 1000 kWh/m^2, while for central Serbia it is about 1400 kWh/m^2.

The annual level of actual sunlight and total potential sunlight in Serbia is approximately 50%. All the above data clearly indicate that Serbia does have solar energy resources above the European averages along with a very favorable seasonal distribution.

Thanks to considerable reduction of prices which happened in recent years the total installed capacity of photovoltaic panels worldwide was, at the end of 2014, about 178 GW. The biggest markets in 2014 were China, Japan, and the USA. After a total of 37 GW was installed

6 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, December 2009.
7 Jefferson Institute, Korišćenje solarne fotonaponske energije u Srbiji, Dr. Ljubisav Stamenić, December 2009.

during 2013, the year 2014 witnessed a new record of 40 GW of installed photovoltaic panels worldwide. It is estimated that the total capacity worldwide by 2020 will reach 540 GW, while the estimates for the territory of the EU indicate an increase of 80% for the same period of time. Already now, three EU member states, specifically Italy, Germany and Greece, meet more than 7% of their consumption by energy generated in photovoltaic panels. Europe still has the leading position in terms of total installed capacity of photovoltaic panels.[8]

Over a period of 10 years the price of photovoltaic panels has decreased by 75%. It is expected that the global market of photovoltaic panels shall reach EUR 100 billion in 2015. The energy generated from solar radiation currently meets about 1% of global consumption of electricity, which is equivalent to the production form 33 coal firing power plants of capacity of 1 GW. Power generation from photovoltaic panels in an increasing number of countries has become reliable, sustainable and cost-efficient and competitive, compared to other energy sources. The price of photovoltaic systems is currently below 1 EUR/Wp, for installed capacity exceeding 1 MW for most EU member states.[9]

1.2. Sources of law

Construction of plants and performing the activity of energy generation from such plants are regulated by a number of regulations in the Republic of Serbia.

Sources of law of the Republic of Serbia can be divided into several groups of regulations which will be detailed in the further chapters of this document.

The group of regulations governing the field of planning and construction of facilities includes: the Law on Planning and Construction[10], the Law on the Spatial Plan of the Republic of Serbia[11], their pertaining bylaws and other regulations. Planning documents include spatial plans (regional spatial plans, spatial plans of units of local self-government, and spatial plans of areas for special use) and urban development plans (urban master plan, general regulating plan, detailed regulating plan). The Law on Planning and Construction with the relevant bylaws regulating the area of construction of facilities prescribes the procedures for receiving information on locations and location requirements, the construction permit, and the operation permit, while planning documents define the objectives of spatial planning and development, i.e. spatial development, such as whether it is planned in a certain time period to construct a certain facility in a certain location in the Republic of Serbia. In order to obtain the above permits it is necessary to obtain the technical requirements for connection to the power grid, and other requirements.

The group of regulations governing the field of energy includes: the Energy Law, and the accompanying bylaws, the Strategy of Development of the Energy Sector of the Republic of Serbia[12] and other regulations governing the issuing of energy permits, connection of facilities to the grid, acquiring of different types of status of electricity producer from renewable energy sources, and the right to incentives for such producers, and other issues which are discussed in other sections of this Guide.

8 The European Photovoltaic Industry Association (EPIA), 2015, Solar Power Europe, http://www.solarpowereurope.org
9 The European Photovoltaic Industry Association (EPIA), 2015, Solar Power Europe, http://www.solarpowereurope.org
10 The Law on Planning and Construction ("Official Gazette of RS", No. 72/09, 81/09, 64/10 – decision of the Constitutional Court 24/11, 121/12, 42/13 - decision of the Constitutional Court 50/13 - decision of the Constitutional Court 98/13 - decision of the Constitutional Court 132/14 and 145/14).
11 The Law on the Spatial Plan of the Republic of Serbia ("Official Gazette of RS", No. 88/10).
12 The Strategy of Development of the Energy Sector of the Republic of Serbia until 2025 with Projections until 2030 ("Official Gazette of RS", No. 101/15).

The group of regulations governing the field of environmental protection and utilization of natural resources includes: the Law on Environmental Protection[13], the Law on Environmental Impact Assessment[14], the Law on Strategic Environmental Impact Assessment[15], the Law on Integrated Pollution Prevention and Control[16], the Law on Air Pollution[17], the Law on Nature Protection[18], the Law on Waters[19], the Law on Forests[20], bylaws adopted under these laws and other regulations governing environmental protection and the protection and use of natural resources.

It is necessary here to mention the significance of fire protection regulations, which are significant both in the stage of preparation of the technical documentation and plant construction and at the time when the plant begins to operate.

Procedures for the obtaining of different permits issued by state (administrative) authorities and other procedures necessary for obtaining the accompanying documents are administrative procedures, and the deadlines for the issuing of such acts are defined by the relevant regulations governing the issuance of the specific administrative act. In cases when such deadlines are not defined by specific regulations, the deadline for the issuance of the specific administrative act shall be governed by the provisions of the General Administrative Procedure Law.[21]

13 The Law on Environmental Protection ("Official Gazette of RS", No. 135/04, 36/09, and 14/16).
14 The Law on Environmental Impact Assessment ("Official Gazette of RS", No. 135/04 and 36/09).
15 The Law on Strategic Environmental Impact Assessment ("Official Gazette of RS", No. 135/04 and 88/10).
16 The Law on Integrated Pollution Prevention and Control ("Official Gazette of RS", No. 135/04 and 25/15).
17 The Law on Air Pollution ("Official Gazette of RS", No. 10/13).
18 The Law on Nature Protection ("Official Gazette of RS", No. 36/09, 88/10, 91/10 and 14/16).
19 The Law on Waters ("Official Gazette of RS", No. 30/10 and 93/12).
20 The Law on Forests ("Official Gazette of RS", No. 30/10 and 93/12).
21 Article 145 of the General Administrative Procedure Law ("Official Gazette of RS", No. 18/16), stipulates that the deadline for the issuing of decisions by competent state authorities shall be maximum 30 days from the day of initiating the procedure in the interest of the party and when the matter is to be decided in the procedure of direct decision-making, or a maximum of 60 days in cases when the procedure was initiated in the interest of the party but when the administrative issue at hand is not decided by direct decision-making. The general deadline for filing of appeals is 15 days of the day of the party receiving the first-instance decision, unless otherwise stipulated by the law. Article 153, para 2, of the General Administrative Procedure Law stipulates that should the first-instance body fail to issue the decision within the deadline prescribed by the law, an appeal can be filed after the expiration of such deadline but not later than one year after the expiration thereof.

2.1

ACQUIRING THE RIGHT TO CONSTRUCT THE PLANT

2. THE PLANT

2.1. Plant construction procedure

In order to construct and use any structure in the Republic of Serbia it is necessary to fulfill the following requirements: 1) obtain the information on location or location requirements and develop the technical documentation; 2) obtain the energy permit; 3) obtain the construction permit; 4) construct the structure, and 5) undertake the technical inspection of the structure and obtain the operation permit.

With the coming into effect of the Law on Changes and Amendments to the Law on Planning and Construction of 2014, integrated procedure has been introduced for the issuing and changes of location requirements; issuing of construction permits and changes of decisions on construction permits; reporting of works; issuing of operating permit; as well as in cases of issuing decisions for construction of structures and performance of works for which no construction permit is issued for the construction of the plant (hereinafter: the acts of integrated procedure) whose application should significantly accelerate the procedure of obtaining these acts, by means of having holders of public competences (public administration bodies, bodies of the autonomous province, and bodies of local self-government, special organizations and other persons performing public competences according to the law), ex officio, within very short deadlines, issuing the relevant requirements (for connection to the infrastructure network, inscription of property rights on constructed structures, etc.), permits and other acts containing the necessary elements for the issuing of the acts of the integrated procedure. Holders of public competences shall issue these requirements, permits and other acts directly to bodies in charge of issuing the acts of integrated procedure.[22,23]

The construction of structures in the Republic of Serbia formally begins after the acquisition of the construction permit and it is performed on the basis of the issued construction permit and technical documentation, under conditions and in the manner regulated by the Law on Planning and Construction.

The Rulebook on Energy Permits[24] sets out that one of the requirements for the issuing of the construction permit is the obtaining the information on location or location requirements. Thus, the procedure of acquiring the energy permit can be carried out after obtaining the information on location or location requirements.

In the course of obtaining the construction permit for solar plants there is no requirement to obtain the Environmental Impact Assessment, except when the facility is constructed in protected natural areas or other areas of special purpose, when the Environmental Impact Assessment may be required.[25]

It should be noted that in protected areas there is a priority ban of construction of energy generating plants, according to the Law on Nature Protection and the Decree on Protection

22 The integrated procedure does not include the issuing of information on the location and issuing of requirements for design and connection to the power transmission network, for certain structures, in accordance with the law governing the energy sector.

23 As of 1 January 2016, all applications for the integrated procedure can be filed exclusively in electronic form using the following website: http://gradjevinskedozvole.rs/. The electronic signing of documents requires the possession of qualified electronic certificate.

24 The Rulebook on Energy Permit ("Official Gazette of RS", No. 15/15).

25 The Decree on the List of Projects for which the Environmental Impact Assessment Is Mandatory and on the List of Projects for which the Environmental Impact Assessment May Be Requested ("Official Gazette of RS", No. 114/08).

Regimes[26]. Yet, depending on the level of the protection regime, the following regimes are established: 1) in areas of protection regime of 1st level solar energy plants can be constructed; 2) in areas of protection regime of 2nd level the construction of solar energy plants is limited to the total capacity of 50 kW; and 3) in areas of protection regime of 3rd level – solar plants of capacity up to total 100 kW can be constructed – in line with the Decree on Protection Regimes.

2.1.1. Selection of location, perusal of valid planning documents and information on location

The first step to be made by the potential investor, or the person for whose needs the facility is to be constructed and in whose name the construction permit for the construction of the solar plant is made out, is certainly the selection of location.

The second step by the investor[27] is to verify if the valid planning documents[28] of the selected location envisage construction of an energy generating facility. It should be noted that solar plants can also be constructed on agricultural land, with the prior consent of the ministry in charge of agriculture. There is also a rule on changing the intended use of forestland[29], and the rules apply also in the case when the selected location for the construction of the facility is on forestland.

In the local self-government unit whose territory includes the selected location, one can get for perusal the valid planning document in which it is possible to check whether construction of energy facilities has been envisaged at that location.

After that, for the specific location, the application for the information on location shall be submitted, for the purpose of obtaining the data on the possibilities and limitations with respect to the construction on the reviewed cadastral lot in line with the valid planning document.

The application for the information on location shall be submitted to the authority in charge of issuing the location requirements.[30]. A copy of the lot plan shall be submitted with the application for the information on location, which has been previously applied for in the competent cadastral service in the territory of the municipality. In parallel with the application for a copy of the plan, it is recommended to also apply for a transcript of the list of title deeds for the subject cadastral lot from the cadastral service, in order to identify the owner of the land.

26 The Decree on Protection Regimes ("Official Gazette of RS", No. 31/12).

27 The term "investor" implies the person for whose needs the structure is being built and in whose name the construction permit is issued – Article 2, item 21) of the Law on Planning and Construction. This law, in Article 2, item 43) defines the term "financier" implying the person which, on the basis of signed and authenticated contract with the investor, is funding or co-funding the construction, extension, reconstruction, adaptation, rehabilitation or performance of other construction works or investment works regulated by this law, and based on such contract acquires certain rights and obligations prescribed by this law for investors pursuant to such contract, except the acquisition of property rights on structures subject to construction.

28 The Law on Planning and Construction governs the situation in the case of non-existence of a valid planning document. It should also be stressed that the strategic environmental impact assessment is carried out during the preparation of planning documents.

29 Article 10 of the Law on Forests.

30 Location requirements for the construction of a solar plant of capacity 10 MW and more shall be issued by the ministry in charge of construction or the competent authority of the autonomous province if the plant is to be located in the territory of the autonomous province. For solar plants of capacity up to 10 MW the location requirements shall be issued by the authority of the unit of local self-government in whose territory it is located.

street name and number) shall also contain[31] data on: 1) planning document based on which it is issued; 2) zone in which it is located; 3) use of the land; 4) regulation and building lines; 5) Codes of Construction; 6) requirements for connection to the infrastructure; 7) need to prepare a detailed urban development plan or urban development design[32]; 8) cadastral lot, or whether the cadastral lot fulfills the requirements for the building plot with the instructions on the required procedure for forming the building plot; 9) engineering and geological conditions; 10) special requirements for issuing the location requirements (list of requirements). The information on location shall enable the person, in whose name it is issued, to understand all the requirements for construction in a specific location. These requirements include special requirements (requirements for protection of cultural monuments, requirements for preservation of the environment, etc.) and technical requirements (the place and method of service connections of the structure to the infrastructure lines, as well as their capacities).

The information on location shall be issued by the authority in charge of issuing the location requirements, within eight days as of the date of submitting the application, against remuneration of the actual costs of issuing such information[33]

31 The Rulebook on Contents of Information on Location and on Contents of Location Permit ("Official Gazette of RS", No. 3/10).

32 An urban development design shall be prepared for one or more construction lots (formed construction lot) on a certified cadastral-spatial plan. The urban development design is prepared when so envisaged by the planning document or requested by the investor, for the purposes of urban/architectural elaboration of the location. The urban development plan is prepared for one or more cadastre parcels on a certified cadastral-topographic plan. This design for urban/architectural elaboration of the location may determine a change in the intended use within the compatibilities stated in the plan, according to the procedure set out in the Law on Planning and Construction. The change and the detailed definition of planned changes is allowed when the plan envisages any of the compatible changes. The urban development design shall contain: 1) situation plan, composition plan and ground-floor, or landscape plan; 2) concept urban development and architectural plans of the structures; 3) layout of the existing traffic and utility infrastructure with proposed connections to the external network/grid; 4) the description, technical description, and explanation of the solution from the urban development design. The urban development design may be prepared by a legal entity or by an entrepreneur registered in the registry for preparation of technical documentation, and the preparation of the design shall be managed by the responsible licensed urban development planning engineer of architectural profession. The competent authority of the local self-government in charge of urban development planning unit shall confirm that the urban development design has been prepared in compliance with the urban development plan, the spatial plan of the local self-government unit, the Law on Planning and Construction and the relevant by-laws. Prior to such confirmation, the same authority shall organize a public presentation lasting for seven days, during which all comments shall be recorded, after which within three days the urban development plan with all the comments and suggestions shall be forwarded to the Commission for Plans, which is obliged within eight days to consider all comments and suggestions and undertake an expert review and determine if the urban development plan is contrary to the plan for the wider area, and compile a written report with the proposal to endorse or reject the urban development design. Within five days of receiving the proposal of the Commission, the relevant authority of the LSG shall endorse of reject the confirmation of the urban development design and so notify the applicant. If the urban development design is confirmed, this authority shall, within five days of such confirmation, publish the design on its webpages. The investor shall have the right with respect to the notification of confirmation of rejection to file a complaint within three days of receipt of the decision.

33 It happens in practice that the body providing information on location issues to different interested parties information on location for the same facility, without notification that it has already issued the information on location for the same or similar structure in the same location. When obtaining the information on location it is recommended to check if information on location has already been issued for the same or similar facility in the same location.

2.1.2. The energy permit[34]

The energy permit[35] is enclosed to the application for the issuance of the construction permit.

In order to obtain the energy permit, it is necessary to fulfill the criteria for construction of power generating facilities stipulated in the Energy Law[36] and the Rulebook on Criteria for the Issuing of Energy permits, Contents of the Application and the Manner of Issuing the Energy Permit.[37] Energy permits shall be issued for plants of capacity 1 MW and more. The energy permits shall be issued by the ministry in charge of energy.

Evidence of property rights or right to lease the land on which the plant construction is planned is not requirement for the issuing of the energy permit.[38]

For plants of capacity up to 1 MW it is not necessary to obtain the energy permit, meaning that for these plants the construction permit shall be issue without the procedure for obtaining of the energy permit.

The application for the issuance of the energy permit[39] shall contain data on: 1) the applicant; 2) energy facility; 3) value of the investment; 4) manner of securing financing; 5) foreseen exploitation life of the facility, as well as on the manner of site rehabilitation after the expiry of the exploitation life of the facility; 6) compliance with the corresponding planning documents in line with the law governing the conditions and manner of space arrangement, arrangement and use of the construction land and the construction of the facility; 7) the deadline for completion of the construction of energy facility. If the facility is to be constructed on an exploitation field, the application shall contain the consent of the minister in charge of geology and mining.

34 Besides the energy permit, the Energy Law envisages the procedure of public tender. This procedure is carried out in cases when it is not possible through the issuance of the energy permits to ensure new production capacities or when the undertaken energy efficiency measures are not sufficient to ensure safe and regular supply of electricity. The decision to undertake a tender is made by the Government, at the proposal of the ministry in charge of energy.

35 In the previous Energy Law (from 2004) it was explicitly prescribed that the energy permit will be issued in compliance with the Strategy of Development of the Energy Sector of the Republic of Serbia and the Programme of Implementation of the said Strategy

36 In order to have the energy permit issued, the following requirements must be met which refer to: 1) reliable and safe operation of the power system; 2) requirements for identification of location and land use; 3) possibility of connecting the facility to the existing power system; 4) energy efficiency; 5) requirements concerning the use of primary sources of energy; 6) safety at work and safety of people and property; 7) environmental protection; 8) economic-financial capacity of the applicant to implement the construction of the energy facility; 9) contribution of the energy facility to achieving the total share of energy from RES in total final energy consumption in line with the National Action Plan; 10) contribution of the facility to reducing emissions - Article 33 of the Energy Law.

37 The criteria for the construction of energy generating structures contained in the new Energy Law are somewhat broader than the ones prescribed in the Rulebook on Criteria for the Issuing of Energy permits, Contents of the Application and the Manner of Issuing the Energy Permit. The Law prescribes the following criteria: 1) that the plant will not put at risk the reliable and safe operation of the energy system; 2) the determined location and the land use; 3) energy efficient operation; 4) requirements related to use of primary energy sources; 5) safety at work and safety of persons and property; 6) environmental protection; 7) financial ability of the applicant for the request for construction of the facility; 8) contribution of the capacity for production of electricity in achieving the total share of energy from renewable sources in the gross final energy consumption in line with the National action plan; 9) contribution of the capacity to reduce emissions.

38 Article 33, para 2, of the Energy Law.

39 Article 34 of the Energy Law.

The Rulebook on Energy Permits prescribes the Form for application for the issuing of energy permit for construction of energy facilities for production of electricity: Form O-1 - Application for the issuance – extension of validity – of energy permits for the construction of energy facility for production of electricity of capacity 1 MW and more, facility for production of electricity of capacity up to 1 MW using water as primary resource, and facility for electricity and heat co-generation in thermal power plants and heating plants of electric capacity 1 MW and more and heat capacity 1 MW and more.

The forms of applications for the issuance of energy permits for the construction of facilities O-1 shall state the following data: 1) general data on the applicant (name, address, state, official registration number of the applicant, tax identification number, legal and organizational form, data on the person representing the applicant, name of the contact person); 2) basic data on the facility (name of the facility, the location of the facility, municipality, spatial coordinates of the production facility, technical data on the energy facility, primary and secondary fuels); 3) value of the investment; 4) financial position of the investor to implement the construction of the energy facility (deposit made or funds invested in this facility); 5) envisaged economic and service life of the facility; 6) attachments to the application: 6.1) evidence for legal and physical entities, 6.2) information on location or location requirements, 6.3) certified statement of designer in charge on compliance with technical regulations, 6.4) evidence of deposit being paid or a certified document evidencing investments into the construction of the facility, 6.5) opinion of the system operator on conditions and possibilities for connection of the energy facility to the energy grid, 6.6) preliminary feasibility study with the general design/feasibility study with the preliminary design, 6.7) report of the revision board – if necessary.

Forms for applications for the issuing of energy permit for construction of plants of capacity from 1 to 10 MW and plants of nominal capacity exceeding 10 MW are almost identical, the only difference being that the Form used for the issuing of the energy permit for the construction of plants with nominal capacity exceeding 10 MW are more elaborated in terms of basic data to be provided about the facility and defining the share of the energy generating facility in system services. For these plants the applicant is obliged to propose possible options of participating in system services in terms of reducing active power, or regulation of reactive power and the possibility of sharing in primary, secondary and tertiary regulation.

The investor shall submit the following with the application for the energy permit: 1) for legal persons or entrepreneurs: excerpt from the Register of Companies (business name, legal form, registered seat, activity, tax identification number, registry number); 2) for natural persons: photocopy of personal identity card, certificate of nationality and photocopy of passport, if the applicant is a foreign citizen; 3) information on location or the location requirements[40]; 4) certified statement of designer in charge confirming compliance with technical regulations with respect to construction of the facility, energy efficiency, possibility of connection to the existing power grid, fire-fighting protection, safety at work and safety of people and property, environmental protection, etc., in compliance with the Rulebook on Energy Permits, if the technical documentation (preliminary feasibility study with the general design or feasibility study and preliminary design and the report of the review commission) do not require a revision according to the law regulating planning and construction; 5) certificate of deposit payment amounting to 0.5% of the RSD value of the investment not including VAT or a certified document evidencing that funds have been provided for the construction of the energy facility in the amount of the said monetary deposit; 6) opinion of the system operator on requirements for and possibilities of connection of the new facility to the energy systems.

The energy permit shall be issued in form of a decision within thirty days from the date of the application. The unsatisfied party may lodge an appeal to the Government against the decision on the energy permit within fifteen days from the date of receipt of the decision. If the issuer is a unit of local self-government, the appeal shall be lodged to the ministry in charge of energy.

The energy permit shall be issued for a period of three years commencing with the date of its validity and its validity may be extended at the request of the holder for maximum one additional year, by filing the application for extension at the latest 30 days before the expiration of its validity. The validity period shall be extended provided that all legally prescribed requirements are fulfilled[41].

The investor may initiate a new procedure for the issuing of the energy permit only if he has previously exhausted the possibility for extension of the validity of the valid permit.

All issued energy permits and expired energy permits shall be inscribed in a registry book. The registries shall be published at the website of the ministry in charge of energy and shall be updates every three months.

Energy permits are not transferrable.

Energy permits are not required for the construction of energy facilities constructed within public/private partnerships and concessions.

40 Along with the information on location or location requirements a preliminary feasibility study is to be submitted with the general design or a feasibility study and a preliminary design, in accordance with the Law on Planning and Construction, and the report of the review commission in cases when the general design or the preliminary design are subject to review under the Law on Planning and Construction.

41 The requirements for the extension of the energy permit are as follows: 1) that the applicant shall provide evidence of obtaining the necessary documents for the construction of the energy facility, or evidence that it has initiated a procedure before relevant authorities to obtain such documentation; and 2) that the applicant has provided evidence of having undertaken all measures before competent authorities according to the law in order to obtain documentation.

2.1.2.1. Opinion of system operator regarding the possibility for connection of the energy facility to the energy system

The Energy Law, the Decree on Conditions of Supply of Electricity, the Rules on the Operation of the Distribution System and the Rules on Operation of the Transmission System set out a procedure for the connection of generating facilities to the power grid. Neither this Decree, not these rules, nor other regulations regulate the procedure of giving the opinion of the energy entity for transmission or distribution of electricity in the process of issuing the energy permit. In view of this fact, this procedure does not have a specific form, but system operators have developed relevant procedures[42'43] within which they developed the procedure of filing the application for the issuing of the opinion, the necessary documentation, the tariffs, the content of acts on opinion and the validity period thereof. No appeal can be lodged on the act of opinion. The application for connection to the power grid is set out in section 3 of this Guide.

The operator of the transmission system in the Republic of Serbia is the Public Enterprise JP „Elektromreža Srbije" (JP EMS)[44], and the operator of the distribution system in the Republic of Serbia is the Public Enterprise „EPS Distribucija" d.o.o. Beograd[45].

2.1.3. Conditions for connection[46]

Conditions for connection define the possibility of connecting a facility of the producer to the power grid, and they define electric-energy and technical requirements necessary for the development of the preliminary design and the design for construction permit and the design for performance of works, as well as technical, design and operating standards which should be fulfilled by the operator of the transmission/distribution system and facilities of the user which are being connected to the transmission/distribution system.

In contrast to other facilities, conditions for connection for energy generating facilities are not obtained under the integrated procedure.[47] Besides the said procedure for connection of facilities to the power grid, this field is regulated by the Rules of Operation of operators of the transmission and distribution system, the Decree on Conditions of Supply of Electricity and internal acts of the operators of the transmission and distribution systems.

With respect to connection to the transmission network, the procedure starts with filing the request for the development of the Study for Connection of Facilities to the Transmission System, submitted to the transmission system operator. The form of this request is developed by the transmission system operator, who publishes it on its website. Relations between the applicant and the transmission system operator are regulated by the Contract for the Development of the Connection Study.

42 Public Enterprise for Energy Transmission Network of Serbia (JP EMS), which is the operator of the energy transmission network, has adopted a procedure for connection of structures to the transmission network, according to Article 117, para 3 and Article 39, para 1 of the Energy Law, and this procedure has been endorsed by the Energy Agency on 23 December 2015 – www.ems.rs ; www.aers.rs. According to this Procedure, the operator of the transmission network provides its opinion on conditions and possibility of connection to the transmission network within the preparation of the Study for Connection of Structures to the Transmission System.

43 Guidelines for connection of structures to the transmission network, January 2016 – www.ems.rs.

44 www.ems.rs.

45 http://www.epsdistribucija.rs.

46 It should be noted here that according to Article 118 of the Energy Law the connection of the energy facility to the transmission system is performed in a manner implying that the transmission system operator is the investor for this connection. Also, according to Article 140, para 6, of the Energy Law connection to the distribution system of plants producing electricity is not performed in the integrated procedure. If there is a need for an electricity generating plant to be connected as a buyer to the power distribution system, in such a case the obtaining of conditions is done as part of the integrated procedure.

47 Article 8b, para 10, of the Law on Planning and Construction and Articles 117-120 and 140, para 6, of the Energy Law.

A part of the study which is developed for all power generators contains, among other things, the following: 1) technical requirements for the development of planning and urban development planning documentation; 2) opinion of the transmission system operator on conditions and possibility of connection to the transmission system, and 3) terms of reference for the connection to the transmission system. The deadline for the development of this part of the study is 90 days after the advance payment being made for the development of the study to the account of the transmission system operator.

If the applicant is an energy producer with special characteristics, it is mandatory to undertake the quality control of the electricity, and analysis of dynamic transmission processes, control of compliance of facilities with the Rules on Operation of the Transmission System.

The deadline for the completion of the Study for Connection of Facilities to the Transmission System is 180 days of the date of the registered first payment according to the time frame of payments from the Contract for the Development of the Connection Study. The costs of the study are to be paid by the applicant, according to the tariffs of the transmission system operator.

The process of obtaining and developing documentation for the construction of the connection to the transmission system is initiated by the energy producer by filing a request for signing the contract for development of planning and technical documentation and obtaining the necessary permits for the construction of the connection. The application is available at the website of the Transmission System Operator – the Public Enterprise - JP EMS. This process begins only after completion of the part of the study which is made for all electricity producers. When signing the said contract, the electricity producer opts for one of the possibilities set forth in the Energy Law, specifically: 1) that the JP EMS, as investor, shall construct the connection at the cost of the electricity producer, or 2) that JP EMS, as investor, authorizes the producer to build the connection in its name and at the cost of EMS, in which case the producer manages the project of constructing the connection under control by JP EMS.

With respect to connection to the distribution system, the procedure begins with the filing of the application for the issuing of connection requirements, filed to the distribution system operator. The form of the application is developed by the distribution system operator and is available at its registered offices. The form of the application for the issuing of connection conditions also states the necessary documentation to be attached to the application. The technical report, based on the performed analysis, determines if there are electrical-energy and technical conditions for potential future connection of the structure under the filed application. On the basis of the technical report the energy entity for the distribution of electricity issues an act on conditions for connection. The conditions for connection also define their period of validity. No appeals can be filed regarding the act on conditions for connection (the act does not include justification and instructions on legal remedies). The act on conditions for connection is issued within the deadline prescribed by the law[48]. Energy entities issue these conditions for connection against remuneration for actual costs.

48 The deadline for the issuing of conditions for connection is 30 days, more details available in footnote 21 of this Guide.

2.1.4. Location requirements[49]

The Law on Planning and Construction prescribes that location requirements is a public document containing data on possibilities and limitations for construction on a cadastral lot which fulfills requirements for the construction permit and which contains all requirements for the preparation of technical documentation necessary for the issuing of the construction permit.

Location requirements for construction of solar power plants of capacity 10 MW or more shall be issued by the ministry in charge of construction, or the competent authority of the autonomous province if the power plant is to be located in whole in the territory of the autonomous province. For power plants of capacity up to 10 MW, location requirements shall be issued by the competent authority of the unit of local self-government in whose territory it is located. Location requirements are acquired within the integrated procedure.

2.1.4.1. Procedure for issuing of location requirements

The documentation necessary to obtain the location requirements for construction of a solar plant is specified in the Law on Planning and Construction and the Rulebook on Location Requirements[50] and the Rulebook on Integrated Procedure.[51] The following shall be submitted as obligatory exhibits to the application for the location requirements: 1) concept design of the future structure or part of structure (sketch, drawing, graphical presentation, etc.), developed and with appendices according to the Rulebook regulating the content of technical documentation[52],[53] and 2) evidence of paid administrative tax for filing the application.[54]

The application for obtaining the location requirements shall contain as mandatory: 1) data on the location (address and name of cadastre municipality and numbers of lots and their size); 2) data on the structure for which the permit is requested (construction and intended use of the structure according to the Rulebook on Classification of Structures[55] – ("power plants"), category ("G"), classification number ("230201") and the gross developed construction surface); 3) data on structures existing in the plot; 4) statements regarding the costs of obtaining location requirements and delivery; 5) list of appendices and the appendices themselves; 6) data on the applicant.

49 With respect to obtaining documentation necessary for the issuing of location requirements for facilities there are cases of overlapping of documentation (on the right to use the land, technical documentation, etc.) for the issuing of individual acts.

50 The Decree on Location Requirements ("Official Gazette of RS", No. 35/15).

51 The exchange of the application, acts and documentation within the integrated procedure between the applicant and the competent authority is performed in electronic form. All acts made by competent authorities and holders of public competences within the integrated procedure and/or intended for use within such procedure, as well as documents filed by the applicant, the competent authority of the holder of public powers, including the technical documentation, shall be provided in the form of electronic documents in *dwg, dwf,* or *pdf* format.

52 Rulebook on Content, Method and Manner of Development and Performing Control of Technical Documentation According to Class and Intended Use of the Structure ("Official Gazette of RS", No. 23/15).

53 If the solar power plant impacts the water regime, this documentation shall be compiled in accordance with the Instructions on the manner of actions by competent authorities and holders of public competences implementing the integrated procedure with respect to water acts in the process of exercising rights for construction, http://www.mgsi.gov.rs/cir/dokumenti/uputstvo-o-nachinu-postupanja-nadlezhnih-organa-i-imalaca-javnih-ovlashtshenja-koji-0

54 It should be noted here that the Instructions on the manner of actions by competent authorities and holders of public competences implementing the integrated procedure with respect to water acts in the process of exercising rights for construction provides a clarification of the rule regarding the procedure for acquiring the water requirements, water consent, and water permit in all stages of the integrated procedure, including the part regarding the issuing of location requirements, in cases when the solar plant has impacts on the water regime.

55 Rulebook on Classification of Structures ("Official Gazette of RS", No. 22/15).

If the planning document, or the report, does not contain the possibilities, limitations or conditions for construction of structures, meaning all conditions for connection to utility, transport and other infrastructure, the competent authority shall obtain such conditions *ex officio*, at the cost of the applicant, with remuneration for actual costs of issuance. Holders of public powers are obliged to provide such conditions at the request of the competent authority within 15 days of receipt of the request.

The competent authority shall be obliged within 5 working days of the date of obtaining all necessary conditions and other data from holders of public powers to issue the location requirements.

Location requirements contain all urban-planning, technical and other conditions and data necessary for the preparation of the preliminary design or the design for the construction permit and the design for the performance of works, as well as the following data: 1) the number and size of the cadastre lot, except for line infrastructure facilities and antenna pillars; 2) name of the plan document, or the plan document and urban development design based on which the location requirements is issued and rules of construction for the zone or for the whole in which the relevant lot is located; 3) conditions for connection to the communal, transport and other infrastructure; 4) data on existing facilities in the relevant lot which need to be removed before construction; 5) other conditions in accordance with special laws.

With respect to issued conditions, complaints may be filed to the competent municipal authority or the city council within three days of the serving of location requirements, and in case where the permit was issued by the relevant ministry or authority of the autonomous province the complaint shall be lodged to the Government, through the relevant body which issued the location requirements.

Location requirements are valid for a period of 12 months of the date of issuance or until the validity of the construction permit issued in accordance with such permit, for the cadastre plot for which the application was filed.

2.1.4.2. Forming the building plot[56]

A building plot is a part of the construction land, with access to a public traffic area, which has been constructed or is envisaged for construction by a plan.

For construction, or installation of infrastructure, electric power and electronic structures and equipment, a building plot of smaller or larger area than the one foreseen in the planning document for that zone can be formed, provided the existence of the access to the structure, or equipment, enabling maintenance and elimination of defects or access in case of average/damage. Acceptable evidence of the existence of access to the public traffic surface can be the contract on establishing the right of official easement signed with the owner of such passage or consent of the owner of passage.

For the purpose of constructing a solar plant, the construction plot is the land belt of incomplete expropriation of some of the cadastre plots through which the facility spreads and individual plots in which the relevant above-ground structures are located.

If necessary, prior to submitting the application for location requirements, it is possible to make the allotment/re-allotment plan, i.e. the plan forming the building plot.[57] The re-allotment plan implies the plan forming one or more building plots on a number of cadastral lots while the allotment plan implies the plan forming a number of building plots on a single cadastral lot.

The allotment or re-allotment plan shall be drawn up by an authorized company, or by another legal entity or an entrepreneur, registered in the relevant registry. Drawing up of the allotment plan shall be managed by the town planner-in charge, an architect. The specified plan shall also contain the design of geodetic survey benchmarking.

The allotment or re-allotment plan shall be submitted to the authority in charge of urban planning of the unit of local self-government for verification. If the plan complies with the valid planning document, the competent authority shall verify the plan within 10 days, and, if not, it shall notify the party that has submitted the plan thereof. A complaint against the above notification may be submitted to the municipal or to the city/town council within 3 days as of the date of its submission.

Thereafter, the application for undertaking the allotment, or re-allotment, shall be submitted to the authority in charge of affairs of state survey and cadastre (RGA – the Republic Geodetic Authority).

The following shall be submitted with the application for undertaking the re-allotment/allotment: 1) evidence of resolved property-rights relations for all the cadastral lots, and 2) re-allotment or allotment plan verified by the authority in charge of town planning affairs of the unit of local self-government, an integral part of which shall also be the design of geodetic survey benchmarking. Under this request, the authority in charge of state survey and cadastre shall make its decision on forming the cadastre lot(s). Appeals can be lodged against this decision within 15 days of the decision being served.

56 Provisions of the Law on Planning and Construction with respect to forming the construction plot for a power plant are complex. Article 69, para 1, of the said Law prescribes that for the purposes of constructing a facility a construction plot may be formed which deviates from the surface or position envisaged by the plan document for the specific zone, provided that there is access to the structure or to the equipment, for the purposes of maintenance and removal of defects or average/damage. Acceptable evidence of the existence of access to the public traffic surface can be the contract on establishing the right of official easement signed with the owner of such passage or consent of the owner of passage. Such facilities can be constructed also on agricultural or forest land, provided that a prior consent has been obtained from the ministry in charge of agriculture or forestry. In order to construct such facilities in agricultural land it is possible to apply provisions of the Law on Planning and Construction relevant to parcelization, re-parcelization and changing of boundaries of adjacent plots, as well as provisions on variations from surface area and positions as stated in plan documents.

57 Rulebook on General Rules of Parcelization, Regulation and Construction ("Official Gazette of RS", No. 22/15).

For obtaining the location requirements for solar power plants, it is possible to apply the provisions of the Law on Planning and Construction which regulate special cases of forming of a building plot. For construction of electric power facilities, a building plot may be formed of a smaller area than the area specified in the planning document, provided there is an access to the facility, or to equipment, for the purpose of maintenance and elimination of defects or accidents. An access easement agreement with the owner of the servient estate shall also be recognized as a resolved access to a public traffic area.

2.1.4.3. Water management acts[58][59]

The Law on Waters makes distinction between the general and special uses of waters. The document titled water requirements shall be issued within the procedure for preparation of the technical documentation for construction of new facilities which may have a permanent or a temporary impact on the changes in the water regime or which may threaten the objectives concerning the environment. The right to the special use of waters can be acquired on the grounds of concession and exercised in compliance with the agreement governing the concession.

This Law defines the following water acts relevant for the construction of facilities; 1) water requirements, 2) water approval, 3) water permit. Water acts shall be issued by the ministry in charge of water resources management. If the structure is located in the territory of the autonomous province, then such documents shall be issued by the competent authority of the autonomous province (the provincial secretariat in charge of water resources management in Novi Sad) and, if the structure is located in the territory of the City of Belgrade, such documents shall be issued by the competent authority of the City of Belgrade (the Water Administration). Water acts shall be issued within two months from the date of filing the application.

An appeal may be lodged against a water document issued by the competent authority of the autonomous province, or of the City of Belgrade, to the ministry in charge of water resources management, within 15 days. An administrative dispute can be initiated against the decision of the ministry in charge of water resources management.

Within the integrated procedure for issuing of location requirements and construction permits, the deadlines for the issuing of water acts are shorter, the procedure for the applicant is simplified, and in cases when the applicant is dissatisfied it is somewhat different compared to the one outside of the integrated procedure.[60]

The Law on Waters prescribes that, for the procedure for preparation of the technical documentation for construction of new and reconstruction of existing facilities and for carrying out of other works which may have impact on the changes in the water regime, the investor shall obtain the water requirements (specifying technical and other requirements that must be met). The Instructions on the procedures by relevant authorities and holders of public powers within the integrated procedure with respect to water acts in the process of exercising the right to construct, Appendix 1 provides: the list of facilities for which water acts are to be obtained. Solar power plants could be considered as other structures and works, which could temporarily or permanently cause changes in the water regime or otherwise impact the water

58 Issuing of the water requirements, the water approval, and water permit is regulated by the Law on Waters and the Rulebook on Contents and Form of the Application for Issuing Water acts and Contents of Opinion in the Procedure of Issuing Water acts ("Official Gazette of RS", No. 74/10, 116/12 and 58/14). Under the integrated procedure, the manner and deadlines for the issuing of water acts are defined by the Instructions on the procedures by relevant authorities and holders of public powers within the integrated procedure with respect to water acts in the process of exercising the right to construct.

59 Construction of solar plants does not require the issuing of water management acts, unless it implies works of structures which due to their position can temporarily or permanently cause changes in the water regime or can otherwise impact the water regime.

60 The Instructions on the procedures by relevant authorities and holders of public powers within the integrated procedure with respect to water acts in the process of exercising the right to construct.

regime, as provided for in the plan documents or studies.

Prior to issuing the water requirements (which are an element of the location requirements, and are necessary for preparation of the design documentation – the design for construction permit), it is necessary to obtain the opinion of the national organization in charge of hydro meteorological affairs (the Republic Hydro Meteorological Service - RHMS) and the opinion of the public water management enterprise (Public Water Management Enterprise Srbijavode – for the territory of the Republic of Serbia except for the Autonomous Province of Vojvodina, i.e. of the Public Water Management Enterprise Vode Vojvodine – for the territory of the Autonomous Province of Vojvodina, or of PWC ''Beogradvode'' in Belgrade, for structures and works in the territory of the City of Belgrade).

Since water requirements are obtained within the integrated procedure, at the time of obtaining location requirements, along with the documentation submitted to the competent authority issuing location requirements, it is necessary to attach the hydrologic study developed by the investor[61] and the previously issued water acts in case of constructing a new facility within the already existing one or in case of reconstruction.

The obtained decision on issuing the water requirements is one of the components of location requirements.[62] On the basis of this decision the design for the construction permit is to be developed.

After obtaining the location requirements, the project documentation shall be prepared – preliminary design and design for construction permit for the solar plant.

When obtaining the construction permit within the integrated procedure, it is not necessary to obtain the water consent, as the water consent [63] for technical documentation is not a requirement for the obtaining of the construction permit or of the operation permit. Compliance of the technical documentation with the water requirements for the issuing of construction permit is verified and confirmed by the entity performing technical control in accordance with the Law on Planning and Construction and bylaws under that Law. [64,65]

Once the facility is constructed, and prior to obtaining the operation permit, the investor should obtain the **water permit**[66], if the water requirements stated this obligation. The water permit shall be obtained outside of the integrated procedure.

The application for the water permit is submitted to the ministry in charge of water management or the competent authority. The water permit is required for the exploitation and use of natural and artificial watercourses, lakes, and ground waters, for treatment and

61 The Instructions on the procedures by relevant authorities and holders of public powers within the integrated procedure with respect to water acts in the process of exercising the right to construct, Appendix 2: list of structures for which it is necessary to obtain in advance the hydrological study in order to receive the Opinion of the National Hydro-Meteorological Authority.

62 Exceptionally, according to Article 118 of the Law on Waters, the competent authority for the issuing of water requirements may request from the applicant to obtain the opinion of the ministry in charge of the environment and/or a specialized technical or scientific institution (institute, etc.). For structures and works in a territory of a spa resort, the applicant shall obtain the opinion of the ministry in charge of the affairs of tourism. There is no specifically prescribed procedure for obtaining the above opinions.

63 Water consent is a water act determining that the technical documentation for structures and works is prepared in compliance with the water requirements. Yet, the investor may apply for the water consent to be issued by the relevant authority outside of the integrated procedure, as a control document providing additional security with respect to application of water requirements.

64 The Instructions on the procedures by relevant authorities and holders of public powers within the integrated procedure with respect to water acts in the process of exercising the right to construct.

65 Although the Law on Waters requires for the issuing of the construction permit to have obtained the water consent for the technical documentation, confirming that the technical documentation– the design for the construction permit, is prepared in compliance with the water requirements. The Instructions on the procedures by relevant authorities and holders of public powers within the integrated procedure with respect to water acts in the process of exercising the right to construct defines the process in case of an integrated procedure, so that the role of the water consent is performed by the confirmation of the entity undertaking technical control (according to the Law on Planning and Construction and by-laws adopted under it) that the technical documentation is in conformity with water requirements. This simplifies and accelerates the obtaining of the construction permit.

66 The water permit, which is obtained after the facility is constructed, sets out the manner and conditions for operation and use and discharge of water. Although Instructions on the procedures by relevant authorities and holders of public powers within the integrated procedure with respect to water acts in the process of exercising the right to construct define that the water consent is not a prerequisite for the obtaining of the operation permit, investors are advised to obtain it before the construction permit for reasons of legal certainty with respect to utilization of facilities which have an impact on the water regime.

discharge of waters and other substances into natural and artificial watercourses, lakes, ground waters, and public sewers, in case of increase or decrease of the capacity of the already existing structure – for the increase of the quantity of in-taken and discharged waters, changed nature and quality of discharged waters, as well as for other civil works that impact water regime. This permit shall be issued for a period of maximum 15 years and not later than two months prior to its expiry its validity should be extended if there is an issued decision on water permit. The right acquired on the basis of the water permit may not be assigned to any third party without the consent of the issuing party, and this right shall terminate: upon expiry of the validity thereof, by waiver of the right, and by failure to exercise the right without justified reasons for over 2 years. The application for issuing the water permit shall be submitted on the prescribed form O6.

The application for issuing the water permit shall contain: 1) general data on the applicant; 2) basic data (administrative, hydrographic and topographical survey data) on the structure, or works, as well as the place, date, signature, and seal of the applicant. Additionally, this application for a solar power plant for which water requirements or water permit have been issued, shall contain: 1) decision on issuing water approval or water permit; 2) report of a public water management enterprise on fulfillment of requirements from water requirements and water approval for issuing the water permit; 3) report of the commission on completed technical inspection of the structure; 4) design for construction permit or as-built design; 5) excerpt from the design for construction permit or as-built design. If operation permit has been issued for the solar power plant, and water approval has not been issued, the application for issuing of the water permit shall also contain: 1) operation permit; 2) report of the public water management enterprise on readiness of the structure for issuing of the water permit; 3) design for construction permit or as-built design; 4) excerpt from the design for construction permit or as-built design.

For solar plants and works for which water approval or water permit has been issued and structures for which operation permit has been issued, and water approval has not been issued, in addition to the already specified elements, the application for issuing of the water permit shall contain: 1) decision of the ministry in charge of health on determination of zones of sanitary protection of springs; 2) decision of the ministry in charge of geological investigations on established and classified reserves of ground waters[67]; 3) approval of the ministry in charge of tourism for use of water with natural curative properties in a territory of a spa resort; 4) contract or other document that the public utility company provides the service of cleaning of the structure for discharge of water and the service of elimination of solid waste; 5) report of a licensed legal entity on testing of quality of waters (taken in and discharged) from the previous period; 6) certificate of a licensed legal entity of proper condition of facilities for collection, evacuation, and treatment of waste waters, including

67 Application for Water Requirements also contains the decision of the Ministry in charge of geological explorations on established and categorized reserves of ground water, if intake of the water through wells is to be carried out for the requirements of the process

septic tanks; 7) report of a licensed legal entity on testing of the level and quality of waters in piezometers, in the zone of storage structures, as well as 8) calibration tables issued by a licensed legal entity only for structures for storage.

Along with the specified attachments to the application for issuing of the water permit, the minutes of the water inspector shall also be submitted.

2.1.5. Environmental impact assessment[68]

Environmental impact assessment is a very important element in the process of constructing the solar plant. In the process of obtaining the energy permit it is necessary to undertake the assessment of potential environmental impacts and propose measures to protect the environment.

Should the competent authority deem it necessary it may request, as a pre-requisite for the issuance of the construction permit, to prepare the environmental impact assessment of the solar plant.[69]

The environmental impact assessment for the solar plant, including proposed measures for environmental protection, is undertaken at the time of undertaking the EIA Study. Solar plants are not explicitly included in any list, meaning that these structures do not require the EIA Study for the solar plant. In cases of solar plants of capacity exceeding 50 MW it is mandatory to undertake the EIA Study. Also if the solar plant is built within protected natural areas or in the protected environs of immovable cultural assets, the EIA Study may be requested.[70]

The request to decide on the need to undertake the environmental impact assessment is filed to the competent authority. Competences of authorities in deciding on the need to undertake the EIA is the same as the competences for the issuing of the construction permit.[71]

The request to decide on the need to undertake EIA shall be submitted in the prescribed form, in compliance with the Law on Environmental Impact Assessment and the Rulebook on Contents of the Application for the Need to Assess the Impact and Contents of the Application for Determining the Scope and Contents of the Study of Environmental Impact Assessment Study.

68 It should be noted that, in addition to the environmental impact assessment for a specific structure, strategic environmental impact assessments have been made, which is made for plans, programs, layouts and strategies (hereinafter referred to as: plans and programs) in the areas of spatial and urban development planning or use of land, agriculture, forestry, fishery, hunting, energy, industry, transportation, waste management, water management, telecommunications, tourism, preservation of natural habitats, and wild flora and fauna, which establish the framework for approval of future development projects defined by regulations which govern environmental impact assessment. - Article 5, paragraph 1, of the Law on Strategic Environmental Impact Assessment.

69 The necessary element for issuing the Construction Permit for plants of a capacity of 50 MW or over is the environmental impact assessment made in a clearly defined format – the format of the Environmental Impact Assessment Study for the plant.

70 In practice there are cases when the investor is applying for a bank loan and the bank requires the preparation of EIA, although it is not mandatory by the law.

71 The competent authority in the process of environmental impact assessment of solar plants of capacity 10 MW and more is the ministry in charge of environmental protection or the competent authority of the autonomous province if the plant is located completely in the territory of the autonomous province. For plants of capacity up to 10 MW the EIA Study is filed to the competent body of the unit of local self-government in whose territory the plant is located.

The request to decide on the need to undertake the environmental impact assessment shall contain[72]: 1) data on the project leader; 2) description of the location; 3) description of the characteristics of the project; 4) presentation of the main alternatives that have been analyzed; 5) description of the environmental factors that may be exposed to the impact; 6) description of possible major harmful impacts of the project on the environment; 7) description of the measures envisaged for the purpose of prevention, mitigation, and elimination of major harmful impacts; 8) other data and information at the request of the competent authority. The following documentation shall be submit-ted with this application: 1) information on location or the verified urban development design (issued within a period of maximum one year); 2) concept design or the preliminary design, or the excerpt from the preliminary design; 3) graphical presentation of the micro- and macro-location; 4) requirements and approvals of other competent authorities and organizations obtained in compliance with a special law; 5) evidence of payment of the republic administrative tax; 6) other evidence at the request of the competent authority.

Within 10 days, the competent authority shall notify the interested authorities and the public about the submitted application. The interested parties shall submit their respective opinions within 10 days from the date of receipt of the notification. The competent authority shall decide on the application within an additional period of 10 days. If it is decided that the impact assessment is required for the reviewed solar plant of capacity over 1 MW, the same decision may determine both the scope and contents of the impact assessment study. If it is established that impact assessment is not required, the competent authority may specify minimum requirements for environmental protection in the decision. The decision shall be submitted to the project owner, interested authorities, and to the public within 3 days as of the date of handing down the decision.

The project owner and the interested public may lodge an appeal, and the competent second-instance authority[73] shall hand down its decision within 30 days from the date of receipt of the appeal.

If, further to the application related to the impact assessment, the decision has been handed down in which it was decided that the impact assessment is required and if, in the same decision, the competent authority has not specified the scope and contents of the impact assessment study, the project owner shall submit the application for determining the scope and contents of the impact assessment study to the competent authority, in the prescribed form.

72 The Application Form concerning the need to assess the impact of a project on the environment is specified in the Rulebook on Contents of the Application Concerning the Need for Impact Assessment and Contents of the Application for Determining Scope and Contents of the Environmental Impact Assessment Study ("Official Gazette of RS", No. 69/05).

73 An administrative dispute can be instituted against the decision of the ministry in charge of environment.

The specified application shall contain: 1) data on the project owner, 1a) description of the location, 2) description of the project, 3) presentation of the main alternatives that have been analyzed, 4) description of the environmental factors that may be exposed to the impact, 5) description of possible major harmful impacts, 6) description of measures envisaged for the purpose of prevention, mitigation, and elimination of major harmful impacts, 7) non-technical summary of data from 2) to 6), 8) data on possible difficulties encountered by the project owner in collecting the data and documentation, 9) other data and information at the request of the competent authority. The following documentation shall be submitted with the specified application: 1) excerpt from the urban development plan or verified urban development design, or the decision on urban development requirements issued within a period of maximum one year, 2) preliminary design, or the excerpt from the preliminary design, 3) graphical presentation of the macro- and micro-location, 4) requirements and approvals of other competent authorities and organizations obtained in compliance with a special law, 5) evidence of payment of the republic administrative tax, and 6) other evidence at the request of the competent authority.

Within 10 days, the competent authority shall notify the interested public about the submitted application. The interested parties shall submit their respective opinions within 15 days as of the date of receipt of the notification. Within 10 days, the competent authority shall hand down the decision on the scope and contents of the impact assessment study. The decision shall be submitted to the project owner and to the interested public within 3 days.

The project owner and the interested public may lodge an appeal, and the competent second-instance authority shall hand down its decision within 30 days from the date of receipt of the appeal.

More detailed procedure for elaboration of the EIA Study for a solar plant is regulated by the Law on Environmental Impact Assessment and by the bylaws under this Law[74]. This Law stipulates that the concrete impact assessment study for a solar plant is an integral part of the documentation, which shall be submitted with the application for the construction permit or with the report on commencement of the project implementation (construction, execution of works, change of technology, change of activity, and other activities).

74 The bylaws of the Law on Environmental Impact Assessment that are binding for this issue are the Rulebook on Contents of the Application Concerning the Need for Impact Assessment and Contents of the Application for Determination of Scope and Contents of the Environmental Impact Assessment Study and the Rulebook on Contents of Environmental Impact Assessment Study ("Official Gazette of RS", No. 69/05).

The EIA Study shall contain: 1) data on the project owner, 2) description of the location at which the project implementation is planned, 3) description of the project, 4) presentation of the main alternatives of the project that have been analyzed, 5) presentation of the state of the environment at the location and close environs (micro- and macro-location), 6) description of possible major impacts of the project on the environment, 7) assessment of the impact on the environment in case of an accident, 8) description of the measures envisaged for the purpose of prevention, mitigation, and possible elimination of any major harmful impact on the environment, 9) program of monitoring of the impact on the environment, 10) non-technical short presentation of the data specified under 2) to 9), 11) data on technical deficiencies or non- existence of adequate expert knowledge and skills or inability to obtain relevant data. The obtained requirements and approvals of the other competent authorities and organizations shall also be submitted with the Study. The Study shall also contain the basic data on the persons, who have participated in making the study, on the responsible person, date of making the study, signature and seal of the responsible person, as well as the seal of the licensed organization, which has made the study and which is registered for preparation of this type of documentation in the Business Registers Agency.[75]

Not later than one year from the date of receipt of the final decision on the scope and contents of the impact assessment study, the project owner shall submit the application for the approval of the impact assessment study. The impact assessment study (3 copies in paper and 1 in electronic form) and the decision of the competent authority from the previous stage of the procedure shall be submitted with the application.

The public authority shall ensure public insight in, the presentation of, and public debate on the study and it shall notify the interested parties about its time and venue within 7 days. Public debate may be held within minimum 20 days from the date of notification.

Within 10 days from the date of receipt of the application for the approval, the competent authority shall form the technical commission for evaluation of the impact assessment study and, within 3 days after it is formed, the study shall be submitted to the commission for evaluation. Upon completion of the public insight in it, the competent authority shall submit the report with the overview of the opinions of the interested parties to the commission within 3 days.

At the proposal of the technical commission, the competent authority may request from the project owner to make amendments and supplements within a certain time period. The technical commission shall submit the report with the evaluation of the EIA study and a proposed decision to the competent authority within 30 days from the date of receipt the documentation from the competent authority.

Within 10 days from the date of receipt of the report from the technical commission, the competent authority shall notify the interested parties about the decision approving this study or about the rejection of the application for the approval on the impact assessment study, specifically about: 1) contents of the decision; 2) main reasons on which the decision is based; 3) most important measures, which the project owner shall undertake for the purpose of prevention, mitigation, or elimination of harmful impacts. The (unsatisfied) project owner and

75 Detailed prescribed contents of the study are contained in the Rulebook on Contents of the Environmental Impact Assessment Study.

the interested public may institute an administrative dispute against the specified decision.

The Law on Environmental Impact Assessment also regulates the procedure for updating the EIA study due to the lapse of time. It is necessary to point to the fact that the validity of the decision on approval of the EIA study shall be two years, within which time period the project owner shall commence the construction of the solar plant. Upon expiry of this deadline, the competent authority may hand down the decision on the making a new EIA study or on updating the existing one. This decision shall be handed down on the basis of the application of the project owner. The same decision shall also be handed down in case the project owner must deviate from the documentation based on which the environmental impact assessment study for a solar plant has been made. In the latter case, the application for the approval of the updated EIA study shall be submitted prior to submitting the application for the construction permit.

The Law on Environmental Protection stipulates that the ministry in charge of environment shall issue the preliminary consent on the approval for the use of natural resources or assets. This consent shall verify fulfillment of requirements and measures of sustainable use of natural resources, or assets (air, water, land, forests, geological resources, plant and animal life) and environmental protection in the course and after termination of engaging in the activity.[76]

2.1.6. Technical documentation[77]

Construction of a solar plant is carried out on the basis of the construction permit and the technical documentation, under conditions and in the manner regulated by the Law on Planning and Construction.

Technical documentation is a set of designs that are prepared for the purpose of: establishing the concept of the structure, elaboration of requirements, the method of construction of the structure, and for the requirements of maintenance of the structure. Technical documentation is prepared on the basis of the location requirements, which contains all the requirements and data required for preparation of the preliminary design, design for construction permit and design for performance of works.

The technical documentation for construction of a solar plant, according to the Law on Planning and Construction, shall consist of: 1) general design; 2) concept design; 3) the preliminary design; 4) design for construction permit, and 5) design for performance of works, and the 6) as-built design. The as-built design of a structure is part of the technical documentation which is prepared after construction of the solar plant, for the purposes of obtaining the operation permit, operation and maintenance of the structure.

Prior to commencement of preparation of the technical documentation for the solar plant preliminary works are to be performed based on whose results the preliminary feasibility study and the feasibility study are to be performed.[78] For the construction of solar plants for which is it possible, based on the plan document, to issue the location requirements, the preliminary feasibility study shall not be undertaken[79] with the general design[80]. *The preliminary*

76 Article 15 of the Law on Environmental Protection.

77 Rulebook on Content, Method and Procedure for Preparation and Control of Technical Documentation by Class and Intended Use of Structures ("Official Gazette of RS", No. 23/15).

78 It should be stressed that the competence for issuing administrative acts for construction and operation of the specific solar plant and the operation of constructed plant, – pursuant to the Law on Planning and Construction – is the same for all of the following acts: 1) information on location, 2) location requirements, 3) construction permit, and 4) operation permit.

79 The preliminary feasibility study (pre-feasibility study) determines in particular the spatial, environmental, social, financial, market and economical justifiability of an investment with respect to the alternative solutions/variants defined in the general design, on the basis of which a planning document can be adopted, as well as the decision on the justifiability of investments into preliminary works for the preliminary design and elaboration of the feasibility study.

80 The feasibility study determines in particular the spatial, environmental, social, financial, market and economical justifiability of an

feasibility study shall contain the general design, while the *feasibility study* shall contain the preliminary design. The preparation of the preliminary feasibility study or the feasibility study may be performed by a company or another legal person inscribed in the relevant register for performing the activity of design and engineering and fulfilling requirements in terms of qualified staff.

Preliminary works include: 1) research and preparation of studies and designs and other technical materials; 2) obtaining of data for analysis and elaboration of engineering-geologic, geotechnical, geodetic, hydrologic, meteorological, urban development planning, technical, technological, economic, energy-related, seismic, water management, and transport conditions, conditions for fire and environmental protection, and all other conditions relevant to the construction and operation of a certain structure.

The general design shall include data on: 1) the macro-location of the structure; 2) the general layout of the structure; 3) technical-technological concept of the structure; 4) method of providing infrastructure; 5) possible variants of spatial and technical solutions in terms of fitting into the space; 6) natural conditions; 7) environmental impact assessment; 8) engineering, geological, and geotechnical characteristics of the terrain from the aspect of establishing the general concept and justifiability of construction of the structure; 9) exploratory works for preparation of the preliminary design; 10) protection of natural and immovable cultural assets; 11) functionality and rationality of the design.

The concept design is prepared for the purpose of obtaining the location requirements, and it can also be a part of the urban development design for the purposes of urban-architectural elaboration of the location.

The concept design for the solar plant should contain the following data: 1) name, type, and intended use of the structure; 2) whether the structure is to be connected to public water supply and sewerage systems; 3) description of the method for water intake with planned water volumes, if the water is taken from surface or ground water sources; 4) description of the method of discharging waste waters, if the structure discharges waste water into surface or ground waters; 5) description of the technological process including effluent quality and quantity assessment; 6) description of planned works for protection of water courses and prevention of harmful effects of water, protection and utilization of water and prevention of water pollution; 7) data on quality of intaken water (water testing results), in cases when water in taken from surface or ground waters and

in-vestment for a selected solution, detailed in the preliminary design, on the basis of which on the basis of which the decision can be made on the justifiability of investment, for projects funded from the national budget.

information about water supply (water course, canal, well or public water supply system) and the location of water intake. If there are no technical possibilities for water supply from public water supply systems or if it is necessary for the purposes of plant operation to construct a well, in such a case state its intended use (ex. for fire-fighting purposes, for irrigation, fisheries, etc.), the necessary quantity of water from the well, and the like; 8) information on method of water collection and treatment (primary, secondary treatment) and discharge of all waste water from the plant location (technological water, sanitary/fecal water, precipitation) and information regarding the recipient of discharge water (water course, lagoon, septic tank, public sewerage network, etc.), type and method of waste disposal which can impact the water regime (quantity and quality). The concept design shall contain data on: 1) plant capacity; 2) description of production process; 3) type and quantity of raw materials used; 4) type of technological process and final product; 5) data on other structures (works) which may impact the water structures and the water regime (quantity and quality of ground and surface water). It is also necessary to provide the following graphic attachments: 1) a general drawing; 2) layout of all existing and planned structures (with legend), with accompanying infrastructure (especially water supply and sewerage) or structures and infrastructure which is the subject of the application and which is located in the zone of the water structures and water courses (water intakes, inflowing and outflowing structures, TT and fiber optic cables, electric mains, etc.) of appropriate scale on cadastre basis etc.[81]

Preliminary design shall be prepared for solar plants if it is a plant for which the construction permit is to be issued by the ministry in charge of construction, the competent authority of the autonomous province, and if it is subject to technical control by a review commission.

The preliminary design shall determine: the intended use, position, shape, capacity, technical-technological, and functional characteristics of the structure, its organizational elements and the appearance of the structure.

The design for the construction permit[82] is prepared for the purpose of obtaining the construction permit.

The design for the construction permit shall contain the statement by the chief designer, the responsible designer and the person in charge of technical control confirming that the design is prepared in compliance with the location requirements, the applicable regulations, and the professional rules. Additionally, the design for the construction permit shall contain the fire-fighting and protection study. This study shall be prepared by a person holding the relevant license issued in compliance with the regulations on fire fighting and protection.

81 The Instructions on the manner of actions by competent authorities and holders of public competences implementing the integrated procedure with respect to water acts in the process of exercising rights for construction.

82 According to the changes and amendments to the Law on Planning and Construction of 2014, the part of the technical documentation which used to be termed "the design for construction permit" has changed in content and has been given the new name "design for construction permit" .

The design for performance of works[83] shall be prepared for the purposes of performing the construction works. The design for the performance of works is a set of designs harmonized among themselves determining the structural-technical, technological and operational characteristics of the facility with equipment and installations, the technical-technological and organizational solutions for the construction of the facility, the investment value of the facility and conditions of plant maintenance.

The design for performance of works shall include the statement of the chief designer and statements of the responsible designers confirming that the design has been prepared in compliance with the location requirements, the construction permit, the design for the construction permit, the applicable regulations and professional rules. For structures which, according to the law, require fire fighting and protection consent for the technical documentation, prior to the issuance of the operating permit it is necessary to obtain the consent for the design for performance of works within the integrated procedure. [84] This design can also be prepared by stages, in which case the works are to be performed only for the stage for which the design has been confirmed by the statement(s) of responsible designers, confirming that it has been prepared in compliance with the location requirements, construction permit, the design for the construction permit, the applicable regulations and professional rules.

The as-built design is prepared for the purposes of obtaining the operating permit, the operation and maintenance of the solar energy plant.

The as-built design of the constructed plant is the design for performance of works with the amendments occurring in the course of construction of the structure. In case there have been no deviations from the design for performance of works in the course of construction of the structure, the investor, the person who has exercised the supervision, and the contractor shall corroborate and certify, on the design for construction permit, that the as-built state is equal to the designed state. The as-built design shall not be subject to technical control, except when it is prepared for the purposes of legalization of the structure.

83 According to the changes and amendments to the Law on Planning and Construction of 2014, the part of the technical documentation which used to be termed "the design for construction permit" has changed in content and has been given the new name "design for performance of works" (in Serbian: *"izvođački projekat"*) and the new name is "design for performance" (in Serbian: *"projekat za izvođenje"*).

84 The Instructions on the manner of actions by law enforcements authorities and authorities implementing the integrated procedure in the process of exercising rights for construction for structures to which fire fighting measures are implemented, of 9 April 2015, http://www.mgsi.gov.rs/cir/dokumenti/uputstvo-o-nacinu-postupanja-organa-ministarstva-unutrashnjih-poslova-i-organa-koji

2.1.6.1. Preparation of technical documentation

Technical documentation for the construction of a structure may be elaborated by a company, or other legal person, or entrepreneur, registered in the corresponding register of companies. Technical documentation for the construction of structures for which the construction permit is issued by the ministry in charge of construction, or the autonomous province, may be prepared by a company or another legal person inscribed in the relevant registry for preparation of technical documentation for the specific type of structure, which has staff holding license of responsible designer and relevant technical references in preparing technical documentation for structures of the specific type and intended use.[85]

A person employed in a company, another legal entity or an entrepreneur authorized to determine any of the requirements for the preparation of the technical documentation may not participate in the preparation of the technical documentation. Equally, a person authorized to perform technical supervision over the compliance with this law may not participate in the preparation of the technical documentation.

The legal entity performing utility activity or an activity of general interest may prepare the technical documentation for the construction of facilities which it will be using to perform its activity, under conditions prescribed by this law.

2.1.6.2. Technical control

The design for the construction permit shall be subject to technical control.[86,87]

The technical control of the design for the construction permit shall be performed by a company or another legal entity of entrepreneur fulfilling the requirements for the preparation of technical documentation prescribed by the law. The Investor nominates the person who shall perform the technical control.

Technical control of this design may not be performed by a responsible designer who has prepared the design or who is employed in the company which prepared the design or in the company which is the investor. This technical control shall cover especially: 1) checking the compliance with all requirements and rules contained in the Location Requirements, the law and other applicable regulations, technical norms, standards and quality norms, and harmonization of all parts of the technical documentation; 2) compliance of the design with results of preliminary research (preliminary works); review of relevant basis for foundations of the structure; 3) checking the correctness and accuracy of technical-technological solutions for the structure and solutions for the construction thereof; 4) stability and safety; 5) rationality of designed materials; 6) environmental impact and impact on surrounding structures. The technical control of the design for the construction permit for the construction of the structure for which the permit is issued by the ministry in charge of construction or the autonomous

85 Technical references are possessed by persons who have prepared or have participated in the preparation of or execution of technical control of technical documentation based in which structures of this type and intended use have been constructed - Article 126, para 3, Law on Planning and Construction.

86 The Rulebook on Content, Method and Procedure for Preparation of and Control of Technical Documentation by Class and Intended Use of Structures.

87 The purpose of the technical control of the design for construction permit is to check if this document is in compliance with: 1) all requirements and rules contained in the location requirements, 2) the law and other applicable regulations, 3) technical norms, standards and quality norms. The purpose of the technical control is also to check: 1) the harmonization of all parts of the technical documentation, 2) if the design is in compliance with results of preliminary research (preliminary works), 3) to review of relevant basis for foundations of the structure, 4) the correctness and accuracy of technical-technological solutions for the structure and solutions for the construction thereof, 5) stability and safety, 6) rationality of designed materials, 7) the environmental impact and impact on surrounding structures.

province shall also cover the compliance with measures stated in the report of the review commission.[88]

A report shall be compiled on the technical control and is signed by the designers holding relevant licenses who have performed the technical control of individual parts of design, while the final report shall be signed by the person representing the legal person or the entrepreneur.

The costs of technical control shall be covered by the investor. Designs for construction permit prepared according to regulations of other countries shall be subject to technical control which checks the compliance of such documentation with the law and other applicable regulations, technical norms, standards and quality norms. This design document shall be translated into the Serbian language.

The company or another legal person or entrepreneur which is performing the preparation or control of technical documentation and the contractor performing the works, the entity performing supervision and technical control, shall all be covered by liability insurance for damages which may result to the other party or a third person, in accordance with the rulebook which is a bylaw under the Law on Planning and Construction.[89]

2.1.6.3. Technical review of the design

The general design and the preliminary design, the preliminary feasibility study and the feasibility study for solar energy plant for which the construction permit is issued by the ministry in charge of construction or the autonomous province, shall be subject to technical review, which is an expert control by commission appointed by the minister in charge of construction for structures for which he/she is competent to issue the construction permit, or by the commission appointed by the relevant authority of the autonomous province for structures for which it is competent to issue the construction permit.

The review commission shall compile a report including measures that shall be implemented in the course of preparing the design for the performance of works. The deadline for the submission of this report shall not be longer than 30 days of the issuing of the application. If the review commission fails to provide its report within this period, it shall be deemed that the commission has no comments.

The costs of the review shall be covered by the investor. The amount of costs is prescribed by the rulebook which is a bylaw under the Law on Planning and Construction.[90]

88 If the technical control report is positive, meaning that there are no comments leading to amendments of the technical documentation, the designated person shall, on the first page of the document, attach the seal of performed technical control which shall be signed by the responsible designer of the technical control.

89 This rulebook was not yet adopted at the time of writing of this Guide.

90 This rulebook was not yet adopted at the time of writing of this Guide.

2.1.7. Construction permit[91]

After completion of the technical control of the design for the construction permit and after receipt of a positive report on technical control or verification stated on the design itself, the application for the construction permit shall be submitted. To the application for the construction permit and the design for construction permit, the investor shall attach the evidence prescribed by the Rulebook on the Integrated Procedure and shall pay the relevant administrative tax. The application for the issuing of the construction permit for solar plant of capacity 10 MW and more shall be submitted to the ministry in charge of construction, or the competent authority of the autonomous province is the solar plant is located completely in the territory of the autonomous province. For solar plant of capacity up to 10 MW the construction permit shall be issued b the competent authority of the unit of local self-government in whose territory it is located.

The application for the construction permit shall contain: 1) first and family name of the investor or the business name of the investor including its tax ID number and the registered seat or address; 2) data on the structure to be constructed or extended for which the permit is applied for (intended use: residential, commercial, industrial, energy-related, transport), dimensions, volume, total surface area, the extended surface area, cost estimates, etc.); 3) designation of the location for construction or extension of the plant (designation of the cadastre lot with address of the plant); 4) list of attachments. In case when the structure is constructed by parts which are technical or functional units, the application shall contain data on planned stages of construction and the final deadline for completion of works. [92]

The following shall be attached to the application for the construction permit: 1) the excerpt from the design for the construction permit, prepared in accordance with the rulebook regulating the contents of technical documentation; 2) the design for the construction permit, in electronic form, and as many hardcopies as the applicant desires to have verified and returned when issuing the construction permit; 3) evidence of paid administrative tax for the filing of the application and issuing the decision on construction permit; 4) the energy permit for construction; 5) evidence of adequate rights on the land or structure according to the Law on Planning and Construction[93],

91 The construction permit is the basic requirement for the construction of structures and after it is obtained it is then possible to apply for the status of preliminary privileged electricity producer, as it is one of the requirements for obtaining this status. More details on obtaining the status of preliminary privileged producer of electricity in Chapter 6 of this Guide.

92 The Rulebook on the Content and Manner of Issuing the Construction Permit ("Official Gazette of RS", No. 93/11 and 103/13 – decision of the Constitutional Court). As this rulebook was adopted on the basis of the Law on Planning and Construction, before the most recent changes, the author adjusted the terminology of the rulebook with the terminology of the Law on Planning and Construction which was adopted subsequently.

93 Adequate right to the land means property right, right of lease on construction permit which is public property, or other rights prescribed by the law. Adequate right on the construction land for persons from Article 102, para 9, of the Law on Planning and Construction, shall be the right of use on the construction land which is entered in the relevant records of immovable property and rights thereon, until the adoption of a separate regulation regulating the right and the manner of obtaining property rights on construction land for such persons. Persons from Article 102, para 9, of the Law on Planning and Construction include: 1) persons, holders of the right of use on the construction plan, which have been or are companies and other legal persons subject to the law regulating privatization, bankruptcy proceedings or enforcement proceedings, and their legal successors; 2) persons who are holders of right of use on undeveloped construction land in state ownership which was acquired for the purpose of construction pursuant to previously applicable laws regulating construction land until 13 May 2013, or on the basis of decision issued by competent authority; 3) persons, or holders of rights to use on construction land, whose position is regulated by the laws applicable to sports, or associations; 4) socially-owned en-

except when such right is inscribed in public registries or established by the law; 6) contract between investor and financier, if any; 7) contract between the investor and the holder of public powers, or other evidence of ensuring the necessary infrastructure, if that is a requirements for the issuing of the construction permit stated in the location requirements; 8) report by the review commission, for structures for which the construction permit is issued by the ministry or the competent authority of the autonomous province; 9) the energy permit, issued in accordance with the special law for construction of energy facilities requiring the energy permit; 10) consent of other co-owners, certified according to the law, if construction or works are performed on construction land or a structure which is co-owned by several persons; 11) requirements for design and connection of the structure to the electricity distribution and transmission system or transport of natural gas, obtained in accordance with the law regulating the energy sector, which are not contained in the location requirements. For structures for which the regulations prescribe payment of contributions for arrangements of the construction land, the application shall include as its integral part of the application from para 1 of this article shall be the statement by applicant on the method of payment of contributions for the arrangement of construction land, and instruments of security in case of payment by installments, for structures whose gross developed construction surface exceeds 200 m^2 and which contain two or more housing units.

For structures for which the construction permit is issued by the Ministry, or by the autonomous province, the application shall also enclose the report of the review commission.

The construction permit shall be issued within 5 working days of the submission, in form of a decision.

The construction permit shall especially contain data on: 1) the investor; 2) the facility whose construction is permitted (with basic data on dimensions, capacities, surface area, cost estimates; 3) the cadastre lot on which the facility is to be built (number of lot and name of cadastre municipality in which it is located, as well as the surface of the lot(s), except when the construction permit is issued for line facilities or antenna pillars); 4) the existing structure which is being removed or reconstructed for the purpose of construction; 5) validity of the construction permit; 6) documentation based on which it is issued; 7) the financier, if the application for the construction permit attached the contract between investor and financier;[94] 8) the manner of settling contributions for arrangement of construction land, including the amount of contributions,

terprises, holders of right on construction land; 5) persons, or holders of rights to use on construction land, whose position is regulated by the laws applicable to the laws of the republic of Serbia and bilateral international agreements regulating the implementation of the Annex to the Agreement on Succession Issues (Official Gazette of FRY – International Agreements, No. 6/02). The right to and relevant conditions for conversion of the right to use construction land to property rights of such persons are regulated by a separate law.

94 Construction permits are issued in the name of the investor and the financier in cases when the application encloses an agreement between the investor and the financier, certified in accordance with the law regulating certification of signatures, in which the investor has agreed that the financier shall also be the holder of the rights and obligations from the construction permit. The financier shall severally with the investor be liable for all obligations towards third parties resulting from the powers transferred to it by the agreement signed with the investor.

the right for reduction based on the contract with holders of public powers; 9) the rights and obligations of the investor and the holder of public powers, if the application for the construction permit attached the contract between the investor and the holder of public powers, or other evidence regarding ensuring of missing infrastructure, when it is a pre-requirement for the issuing of the permit based on location requirements; 10) other data prescribed by the law. Location requirements, the excerpt from the design for construction permit, and the design for the construction permit shall be integral parts of the construction permit.

An appeal may be lodged against the decision issuing the construction permit within eight days of the date of issuance.

The appeals against decisions on construction permit issued by the unit of local self-government shall be decided by the ministry in charge of construction, or the relevant authority of the autonomous province if the structure is to be constructed in the territory of the autonomous province.

The City of Belgrade shall decide on appeals against the first-instance decisions on construction permits for construction or reconstruction of facilities of up to 800 m^2 of gross floor area in the territory of the City of Belgrade.

No appeal may be lodged against the decision on construction permit issued by the competent ministry, or by the competent authority of the autonomous province, but an administrative dispute may be initiated.

The construction permit shall cease to be valid if construction of the structure is not commenced within two years as of the date of legal validity of the decision. If the decision was made by the ministry in charge of construction or the competent authority of the unit of local self-government, this decision shall cease to be valid if, within five years of the decision coming into force, no operation permit has been issued.

At the request of the investor, the competent authority may issue a decision that the construction permit which is in effect shall remain valid for additional two years, or five years, provided that the investor provides evidence that the degree of completion of the structure exceeds 80%, or if it is determined in the procedure that the structure is covered by roof, with installed external fixtures and internal installations enabling its connection to the external infrastructure network.

Article 144 of the Law on Planning and Construction prescribes the cases in which it is not necessary to acquire the construction permit for the purpose of installing solar collectors.[95]

2.1.8. Construction of a structure

The construction of a structure can begin on the basis of an effective decision issuing the construction permit and the filing of the notification of works.[96]

The investor shall notify the authority which has issued the construction permit at the latest eight days prior to the commencement of works. The notification shall also include evidence regarding fulfillment of obligations regarding contributions for arrangement

95 More details on special cases of constructing power plants in Section 3.2. of this Guide.
96 Article 148 of the Law on Planning and Construction regulates the notification of works.

of construction land, and evidence of paid administrative tax. The ministry in charge of construction or the competent authority of the autonomous province shall inform the construction inspectorate of the notification. The deadline for completion of works shall commence as of the date of filing the notification of commencement of works. The ministry in charge of construction or the competent authority of the autonomous province shall submit the decision to the unit of local self-government in whose territory the structure is to be constructed, for its information.

The notification shall state the date of commencement and the deadline for completion of works.

Prior to the commencement of construction, the investor shall provide: 1) marking of the building plot, 2) regulation, leveling, and building lines, in compliance with the regulations governing surveying works, 3) marking of the construction site with an adequate panel[97] which shall contain: data on the structure which is being constructed, the investor, the responsible designer, the number of the construction permit, the contractor, the commencement of construction and the deadline for completion of construction.

Construction of the solar plant or the performance of works may be carried out by a company, or by other legal entity or by an entrepreneur (hereinafter referred to as: the contractor).

Construction of the structure or the performance of works on structures from Article 133, para 2, of the Law on Planning and Construction, may be carried out by a company or other legal entity inscribed in the relevant registry for construction of such structures or performance of such works, which has employees holding the license of responsible contractor and the relevant technical references (results in managing construction or cooperation in constructing at least two such structures).

The obligations of the contractor include: 1) prior to commencement of works to sign the designs for the performance of works, 2) to issue a decision appointing the contractor-in-charge at the construction site, 3) ensure for the contractor-in-charge the construction contract and the documentation based on which the structure is to be constructed, 4) ensure preventive measures for health and safety at work in compliance with the law.

The contractor-in-charge shall: 1) perform the works in compliance with the documentation based on which the construction permit is issued, i.e. based on the design for the performance of works; 2) organize the construction site in a manner ensuring access to the site; 3) ensure the safety of the structure and persons in the site and its surroundings; 4) ensure evidence of the quality of performed works; 5) maintain the daily building records, the building log, and ensure the inspection records; 6) to ensure measurements and geodetic surveillance of soil and structures behavior in the course of construction; 7) ensure the structures and the environs in case of suspension of works; 8) have the construction contract, the decision appointing the contractor-in-charge, and the design for the performance of works available at the construction site.

The investor shall ensure technical supervision of works during the construction of the structure or during the performance of works for which the construction permit has been issued. Technical supervision shall be performed by a person fulfilling the requirements prescribed by the Law on Planning and Construction regarding the responsible designer and the contractor in charge. Supervision of the structure cannot be performed by persons

97 Rulebook on Closing and Marking of Closed Construction Site ("Official Gazette of RS", No. 22/15).

employed by the company or other legal person or entrepreneur performing the works of the specific structure nor persons engaged in issuing the construction permit in the competent authority issuing the construction permit.

If the works concern the connection to the transmission network, after obtaining the construction permit for the construction of the connection of the solar plant to the transmission network, the producer shall submit the application for signing of contract for monitoring of the connection construction, whereby it is initiating the procedure for commencement of construction of the connection. The application for monitoring of the connection construction shall be available at the website of the transmission system operator – JP EMS. Depending on the manner of constructing the connection which the producer has opted for in the stage of developing the urban planning and technical documents and obtaining of the necessary permits, according to the Energy Law, relevant contracts shall be signed for monitoring of construction, specifically: 1) the transmission system operator as the investor shall supervise the connection construction at the expense of the investor, or 2) the transmission system operator, as investor, shall authorize the producer on behalf of the transmission system operator, and at his own expense, to construct the connection, in which case the producer manages the connection construction under the control of the transmission system operator.

2.1.9. Technical inspection of the solar plant and the operation permit

2.1.9.1. Technical inspection[98]

Fitness of the solar plant for use shall be confirmed by technical inspection, upon completion of construction.

Technical inspection of the structure shall be performed within 30 days of the submission of the request for technical inspection of the structure to the ministry in charge of construction, or the relevant unit of local self-government (depending on the competent authority which issued the construction permit).

This inspection shall be performed by the commission or a company, or another legal person, appointed by the investor to perform these tasks, which is inscribed in the relevant register for such activities. The composition of the commission is regulated by the Rulebook on Content and Manner of Technical Inspection of Structures, Composition of the Commission, Content of Proposed Decision of the Commission Regarding the Fitness of the Structure for Use, Surveillance of Soil during Construction and Use, and Minimum Guarantee Periods for Different Types of Structures. In cased when the subject of technical inspection is a structure for which special fire-fighting measures are required, one of the members of the commission shall be an engineer of fire-fighting protection holding a relevant license. In the course of performing technical inspection of a structure for which an environmental impact assessment has been made, one member of the commission shall be a person qualified in the field which is the subject of the EIA study and who has university qualification of the relevant field of expertise at the level of second level of academic studies – master studies, specialized academic studies, or basic studies lasting for at least five years.[99]

98 Rulebook on Content and Manner of Technical Inspection of Structures, Composition of the Commission, Content of Proposed Decision of the Commission Regarding the Fitness of the Structure for Use, Surveillance of Soil during Construction and Use, and Minimum Guarantee Periods for Different Types of Structures ("Official Gazette of RS", No. 27/15).

99 By virtue of Article 31, paragraph 2 of the Law on Environmental Impact Assessment, the competent authority, which has managed the procedure of impact assessment, shall appoint the person who shall participate in the work of the commission for technical inspection. This appointed person may be employed or appointed in the competent authority, or in another authority and organization or be an independent expert, who has evidence of the professional background for participation in the work of the Technical Commission from

The commission shall issue a report / findings of technical inspection.

The costs of the technical inspection shall be covered by the investor.

Minutes shall be recorded regarding the technical inspection and shall be signed by members of the commission.

Should it be necessary, for the purpose of determining the fitness of the structure for use, to undertake preliminary testing and checking of installations, devices, plants, stability or safety of the structure, devices and environmental protection facilities, devices for fire-fighting or other testing, or if so envisaged by the technical documentation, the technical inspection commission or the entity entrusted to perform the technical inspection can approve trial operation of the plant, provided that it has determined that the necessary requirements have been fulfilled for this purpose, and shall so notify the competent authority. For the solar plant to be subject to trial run, it is necessary that it be connected to the energy network or the heat distribution mains.[100]

The act approving the trial run shall determine the duration of the trial run, which shall not be longer than one year, and it shall determine the obligation of the investor to monitor the results of the trail run and after its expiration to submit to the competent authority data on such results.

During the trial run, the technical inspection commission, or the entity entrusted to perform technical inspection, shall check the fulfillment of requirements for the issuing of the operation permit and shall submit to the investor the relevant report.

2.1.9.2. Operation permit[101]

The structure for which a construction permit is required can be used after obtaining an operation permit.

The competent authority in charge of issuing construction permits shall issue the operation permit within five working days of receiving the application for the operation permit.

The procedure for the *issuing of the operation permit* is initiated by filing the application to the competent authority, enclosing: 1) the design for performance of works certified and verified by the investor, the person performing technical supervision and the contractor confirming that the constructed structure is equivalent to the design if during the construction there were no deviations from the design for performance of works, or that the construction is in compliance with the rulebook regulating the content of technical documentation; 2) the report of the technical inspection commission, confirming that the structure is fit for use, proposing the issuing of the operation permit; 3) evidence of payment of prescribed taxes or compensations; 4) certificate of energy characteristics of the structure in cases when obtaining of energy certificate is prescribed; 5) evidence of payment of administrative taxes for the issuing of the operation permit; 6) report on geodetic works for the constructed structure and special parts of the structure; 7) report of geodetic works for underground installations.

Article 22 of this Law. The operation permit may not be issued if such appointed person does not confirm that the requirements referred to in the decision issuing the approval on the Impact Assessment Study have been fulfilled, in case the Decision that the Study must be made has been handed down.

100 More details on connecting the solar plants to the energy or heating network are available in Section 3 of this Guide.

101 The operation permit is one of the requirements for acquiring the status of privileged producer of electricity and the status of producer of energy from renewable sources. For more details see section 6 of this Guide.

The operation permit shall be issued for the whole of the structure or for a part of the structure which is a technical-technological whole and as such can be used separately.

The operation permit shall also state the guarantee period for the structure and for specific types of works as prescribed by separate regulations.[102]

The operation permit shall be submitted to the investor or the financier (if the construction permit is made out in its name), the competent construction inspection and holders of public powers.

The procedure for obtaining the operation permit is a two-instance procedure. Appeals can be lodged within 8 days of the decisions being served, to the ministry in charge of construction, or the autonomous province, if the structure is constructed in the territory of the autonomous province.

When the decision regarding the issuing of the operation permit is issued by the ministry in charge of construction, or the competent authority of the autonomous province, no appeal can be lodged, but an administrative dispute can be initiated within 30 days of the date of it being served.

It should be noted that within five working days of the issued operation permit being final, the competent authority shall *ex officio* submit the relevant operation permit to the authority in charge of state surveying and cadastre, as well as the report on geodetic works for the constructed structure and separate parts thereof, as well as the report on geodetic works for underground installations.

The above authority shall inscribe the property right on the structure and so notify the investor and the competent administrative authority within seven days of serving the operation permit. [103]

Besides obtaining the operation permit for the solar plant, it is necessary to obtain also the operation permit for the connection of the solar plant to the transmission and the distribution system.

2.2. Special cases of constructing solar plants[104]

A special case of constructing a solar plant is the case determined in the Law on Planning and Construction for which no construction permit is required.

2.2.1. Performance of works in cases when no acts of authorities competent for construction are issued

The special type of structures or works for which it is not necessary to obtain acts of competent authorities for construction or acts for the performance of works are simple structures. Simple structures are structures which are built on the same cadastre plot at which the main structure is constructed, and which are performed in a manner which does not interfere with the regular functioning of surrounding structures. The law states explicitly the solar connectors which are not connected to the energy distribution network as such structures.

102 The Rulebook on Minimum Guarantee Periods for Different Types of Structures and Works ("Official Gazette of RS", No. 93/11).
103 Article 158, para 11 and 12, of the Law on Planning and Construction, and the Rulebook on the Procedure for Integrated Permit.
104 Articles 144 and 145 of the Law on Planning and Construction.

2.2.2. Constructing structures on the basis of the decision approving the construction of such works, issued by the authority competent for issuing of construction permits

Construction of auxiliary structures[105] and economic structures[106] including the construction of plants utilizing renewable energy sources of installed capacity up to 50 kW, where construction is carried out on the basis of a decision approving the performance of such works and which is issued by the authority in charge of issuing construction permits, is also a case of constructing structures without the issuance of construction permit.

The application for issuing the decision shall include: 1) evidence of property rights; 2) preliminary design according to the class of structure; 3) evidence of regulated relations with the unit of local self-government regarding contributions for arrangement of construction land, and 4) evidence of paid administrative tax.

For works related to construction/installation of solar plants in structures within boundaries of national parks, facilities within boundaries of protected natural assets of exceptional significance, and facilities within protected vicinities of protected cultural assets of exceptional significance and cultural assets inscribed in the List of the World Cultural Heritage, the decisions shall be made by the competent authority of the unit of local self-government in whose territory such structures are located.

The competent authority shall make the decision within five days of the filing of the application. The exception is when the competent authority rejects the application as their performance requires the issuing of the construction permit, in which case the deadline is eight days of the day of the application.

These decisions are subject to appeals within eight days of the serving of the decision, appealing to the ministry in charge of construction or the competent authority of the autonomous province if the structure or works are located in its territory.

The final decision approving the performance of works for such structures, which according to the law regulating inscription in public registries can be inscribed in public records, shall be the basis for the inscription of rights in public records of real property and rights thereon.

After the construction or the works are completed, or after the installation of the solar plant, the competent authority may issue the operation permit for the installed solar plant, at the request of the investor. If an operation permit has been issued at the request of the investor for the relevant structure or for relevant works, the basis for inscription in public registries shall be the final decision approving works and the final decision on operation permit.

105 Auxiliary structures are structures performing functions relevant to the main structure, built on the same land lot as the main residential, commercial or public structure (garages, storages, septic tanks, wells, water tanks, etc.) – Article 2, item 24, of the Law on Planning and Construction.

106 Economic structures are structures used for breeding animals (horse stables, cattle stables, units for breeding poultry, goats, sheep and pigs, as well as pigeons, rabbits, decorative poultry and birds); auxiliary structures for domesticated animals (gates for livestock, concrete surfaces for manure disposal, keeping of livestock; facilities for storage of animal feed (hay storages, storages of animal feed concentrate, concrete silo pits and silo trenches), facilities for storage of agricultural products (granaries) and other similar structures in farming estates (structures for machinery and vehicles, smoking and drying units, etc.) – Article 2, item 24a), Law on Planning and Construction.

3.1

APPROVAL FOR CONNECTION OF THE PLANT TO THE ENERGY NETWORK

3. APPROVAL FOR CONNECTION OF THE PLANT TO THE ENERGY NETWORK[107]

After obtaining the operation permit, it is necessary to connect the solar plant to the energy/electricity network. The structure of the producer of electricity is connected to the transmission and distribution system under conditions and in the manner prescribed in the Energy Law, the Decree on Conditions of Supply and Procurement of Electricity[108] and the Rules on operation of the transmission and the distribution system, in compliance with standards and technical regulations relevant to conditions for connection and use of energy facilities, devices and plants.

The costs of connection are determined by the system operator, according to the Methodology for determining costs of connection, adopted by the Agency[109]. The costs of connection cover also costs of procurement of measuring devices and are born by the applicant for the connection.

The calculated costs of connection depend on the location of the connection to the system, the approved capacity, the need to perform works and the need to provide services or the need to install necessary equipment and other objective criteria.

The procedure begins with the filing of the application for the approval for connection, filed to the energy entity for transmission or distribution of electricity to whose system the solar plant is to be connected. The form of the application is developed by the system operator, who is making it accessible at its offices and publishing it on its website.

The application for the issuing of the approval for connection of an electricity generating facility to the transmission or the distribution system shall contain data on: 1) owner of the facility, or the user of public property (for a natural person: personal data – name, family name and residence and the unique personal ID number; for the legal person or entrepreneur: legal name, registered seat, excerpt from the company registry, tax ID number, business registry number, account number, and name of responsible person; 2) the facility for which the approval for connection is applied for (address, type, and intended use of facility); 3) total installed power of the facility, the number, capacity and type of generating units; 4) the expected annual and monthly production of electricity; 5) own consumption; 6) intended manner of operation (isolated operation, parallel, or combined operation); 7) the planned time of construction or the planned time of connection; 8) other data according to the rules. The application shall attach: 1) evidence of property right or right to use the facility; 2) construction permit for the facility being connected for the first time.

107 It should be noted here that according to Article 118 of the Energy Law the connection of the power plant / facility to the transmission system is performed in a way in which the transmission system operator is the investor for this connection. Also, according to Article 140, para 6, of the Energy Law, the connection to the distribution system of facilities producing electricity is not performed within the integrated procedure. If there is need for the facility for production of electricity to be connected as a buyer to the distribution system, in such a case the obtaining of requirements is carried out as part of the integrated procedure.

108 The Decree on Conditions of Supply and Procurement of Electricity ("Official Gazette of RS", No. 63/13).

109 Decision determining the methodology for calculation of costs of connection to the electricity transmission and distribution system ("Official Gazette of RS", No. 109/15).

Should the application for approval of connection fail to include all data and documentation, the system operator who is requested to issue approval for connection to his systems shall, within 15 days of receipt of the application for connection of facilities producing electricity, so notify the applicant and set a deadline for provision of data missing in the application.

3.1 Connection to the transmission system

The rights and obligation of the transmission system operator and the producer in the procedure of connection shall be governed by contracts, specifically: 1) the contract on undertaking the study of connection of the facility to the transmission system; 2) the contract on development of planning and technical documentation and obtaining of necessary approvals for building of the connection; 3) the contract on supervision of construction of the connection.

The connection of the solar plant to the transmission system is performed on the basis of the approval for connection. The application for the approval for connection is submitted to the Public Enterprise Power Transmission Network Serbia - JP EMS, after obtaining the construction permit for the solar plant to be connected to the transmission system. The approval for connection is issued in form of a decision in written form within 60 days.[110] An appeal may be lodged against the decision to the Energy Agency within 15 days of the decision being served. The decision of the Agency under the appeal shall be final and an administrative dispute may be initiated under it.

Approval for connection is issued with a validity equivalent to the deadline for construction of the structure, or the deadline for completion of the works, in compliance with regulations on planning and construction of structures, but such deadline shall not exceed two years of the date of the approval. At the request of the applicant, the validity of the decision approving connection can be extended. The request for extension shall be filed at least 30 days prior to the expiration of the decision approving the connection.

The approval for connection of the structure to the transmission system shall contain especially: 1) the place of connection to the system; 2) the method and technical conditions for connection; 3) the costs of connection; 4) the necessary tests of compliance with the Rules of operation of the transmission system; 5) installed capacity; 6) approved rating; 7) place of taking over of energy and method of measurement of the energy and rating; 8) deadline for physical connection of the structure.

The technical and other conditions of connection to the system are determined by the transmission system operator in accordance with the Energy Law, the Decree on Conditions of Supply and Procurement of Electricity, technical and other regulations and Rules on operation of the transmission system.

110 Article 120, para 4, of the Energy Law.

After construction of the solar plant and after the connection of the solar plant to the transmission system, it is necessary to test the compliance with technical requirements stated in the approval for connection. The initiative is started by the producer by filing the request to the transmission system operator who shall, within 45 days of receipt, agree with the applicant the Protocol for starting the operation of the facility. After agreeing the Protocol, both parties shall sign the Protocol.

The transmission system operator is obliged to connect the structure of the producer to the transmission system within 15 days of fulfillment of the following requirements: 1) connection requirements, issued by the operator;[111] 2) that the act has been obtained for trial run of the facility or that the operation permit for the structure and the connection has been obtained; 3) that the buyer, or the producer, has submitted to the system operator the contract for electricity supply, not including commercial data; 4) that the balancing responsibility and access to the system have been agreed for the take-over point.

At the time of starting the operation of the facility the following regimes are possible: 1) test run – functional tests are performed on the facility with certain parts of the facility under voltage, 2) trial run – the facility is under voltage until obtaining of the operation permit, 3) permanent run – the facility is under voltage in continued exploitation regime.

After the time-frame for the implementation of the Protocol for the trial run of the structure is agreed, it shall be signed by the transmission system operator and the applicant. If there are any non-compliances with the Rules of operation of the transmission system, the transmission system operator shall in cooperation with the producer determine the deadline to remove the non-compliances. In accordance with the Protocol for the trial run, the producer shall, in cooperation with the transmission system operator and the technical inspection commission, organize the trail run (putting the structure under voltage until the operation permit). The trial run can begin only after obtaining the positive reports from functional testing and checking of compliance of the structure with the Rules of operation of the transmission system performed during the trial run. The costs of the transmission system operator in implementing the Protocol for trial run shall be determined at the time of agreeing the Protocol for trial run (depending on type of structure, type of equipment within the structure, location of the structure, etc.). The said costs are to be collected from the producer.

After the facility is in permanent run (after obtaining the operation permit for the connection and for the structure) and after completion of all activities and fulfillment of all mutual obligations in all stages of implementing the connection, the transmission system operator and the electricity producer shall close the project of connecting the facility to the transmission system.

It is forbidden to: connect the facility to the system without the approval for connection, connect the facility, equipment or installations to the system on one's own, and their setting into operation.

In the course of connecting the solar plant to the transmission system, the transmission system operator and the producer shall sign the following contracts: the Contract on

111 In the course of connection, prior to putting the facility and installations under voltage or running, apart from testing fulfillment of requirements of the Energy Law and of the Decree on Conditions of Supply and Procurement of Electricity, the system operator shall verify if devices and installations within the facility are compliant with technical and other requirements for connection. Fulfillment of requirements is tested by the system operator in the presence of authorized representatives of the investor of the structure and relevant minutes are recorded. Fulfillment of requirements is checked also in the case of connection of a facility which has previously been disconnected from the system.

exploitation of the facility[112], Contract on balancing responsibility, Contract on access, Contract on supply, in accordance with the Rules of operation of the transmission system and the Energy Law.

In case of connection of the facility of the producer to a part of the distribution system operated by the transmission system operator, the approval for connection shall be issued by the transmission system operator. Prior to issuing approval for connection, the transmission system operator shall obtain from the distribution system operator the following: 1) technical requirement relevant to the distribution system; 2) a preliminary consent for the issuing of the approval for connection.

3.2. Connection to the distribution system

The facility of the electricity producer shall be connected to the electricity distribution system on the basis of the approval by the distribution system operator in accordance with the Energy Law, the Decree on Conditions of Supply and Procurement of Electricity, technical and other regulations and Rules on operation of the distribution system.

The distribution system operator is the investor for the construction of the connection and, as a rule, builds the connection to the distribution system. At the request of the producer, the distribution system operator is obliged to issue the authorization to the producer to itself build the connection, in the name of the operator, at its expense. In such a case, the costs of building the connection shall be deducted from the costs of connection to the system in line with the methodology for determining the costs of connection to the transmission and distribution system. For the connection, it is necessary to obtain documentation in the name of the distribution system operator in line with the law regulating construction. The rights and obligations of the distribution system operator and the producer shall be governed by the contract which, apart from contractual obligations as set by the relevant laws, shall specifically contain provisions on: 1) supervision of construction of the connection; 2) the time-frame of works and deadlines; 3) technical supervision as determined by the investor, and 4) other issues. After the connection is built, it shall become an integral part of the distribution system.

Approval for connection is issued in form of a decision in an administrative procedure at the request of the owner or user of public property whose structure is being connected.[113] An appeal can be lodged to the Energy Agency against the decision within 15 days of the decision being served. The decision of the Agency is final, and an administrative dispute can be initiated under it.

Approval for connection is issued with a validity equivalent to the deadline for construction of the structure, or the deadline for completion of the works, in compliance with regulations on planning and construction of structures, but such deadline shall not exceed two years of the date of the approval. At the request of the applicant, the validity of the decision approving connection can be extended. The request for extension shall be filed at least 30 days prior to the expiration of the decision approving the connection.

112 The Contract on exploitation of the structure (connection), shall contain the following elements: 1) list of structures to be connected to the transmission system, to which the contract applies; 2) boundaries of property on the primary, secondary and other equipment; 3) competent management centers for the transmission system operator and the plant; 4) list of authorized personnel for technical cooperation; 5) exchange of technical documentation; 6) technical parameters relevant to measurement of electricity; 7) confidential data based on the criteria from the Rules on operation of the transmission system operator.

113 The competent energy entities shall issue the positive decision if all requirements have been met, based on the technical report, the calculation of costs of the connection and other available documents.

The distribution system operator is obliged to decide regarding the request for connection of the producer's facility within 45 days of receipt of the written request.

The approval for the connection of the facility to the distribution system shall contain especially: 1) the place of connection to the system; 2) the method and technical conditions for connection; 3) approved rating; 4) place and method of measuring energy; 5) deadline for connection, and 6) costs of connection.

The technical and other conditions of connection to the distribution system are determined by the distribution system operator in accordance with the Energy Law, the Decree on Conditions of Supply and Procurement of Electricity, technical and other regulations and rules on operation of the distribution system.

The distribution system operator is obliged to connect the structure of the producer to the distribution system within 15 days of fulfillment of the following requirements: 1) connection requirements stated in the approval;[114] 2) that the act has been obtained for trial run of the facility or that the operation permit has been obtained; 3) that the producer has submitted to the distribution system operator a contract on supply of electricity; 4) that the balancing responsibility and access to the system have been agreed for the take-over point.

As of the time of the structure being connected the connection shall become an integral part of the system to which it is connected.

Should it be necessary to connect a facility for which trail run has been approved in accordance with a separate law, it is possible to issue an approval for temporary connection of the facility. Issuing of the approval for temporary connection and supply of electricity shall be done under conditions, in a manner and under procedure prescribed for the issuing of approvals for connection.

It is forbidden to: connect the facility to the system without the approval for connection, connect the facility, equipment or installations to the system on one's own, and their setting into operation.

114 In the course of connection, prior to putting the facility and installations under voltage or running, apart from testing fulfillment of requirements of the Energy Law, the system operator shall verify if devices and installations within the facility are compliant with technical and other requirements from the approval for connection. Fulfillment of requirements is tested by the system operator in the presence of authorized representatives of the investor and relevant minutes are recorded. Fulfillment of requirements is checked also in the case of connection of a facility which has previously been disconnected from the system.

4.0

LICENSE

4. LICENSE[115]

License is an administrative act determining the fulfillment of requirements prescribed for performing energy activity by the Energy Law. The license is issued by the Energy Agency of the Republic of Serbia (hereinafter: the Agency). The license is issued in form of a decision, within 30 days of filing the application, provided that all prescribed requirements are fulfilled.

The requirements for the issuing of the license are prescribed by the Energy Law and the Rulebook on Licenses for Performing Energy Activity and Certification.[116] For power plants it is the only act granting the right to engage in the energy activity. The license is mandatory for persons/entities already possessing an energy plant, if they are registered to perform the energy activity.

The requirements for issuing the license are as follows: 1) that the applicant is registered for engaging in the energy-related activity for which the license is issued; 2) that the operation permit for the facility is issued, except for facilities for which, under the prevailing regulations, no operation permit is required; 3) that the energy structures and other equipment, installations or plants required for performing the energy activity meet conditions and requirements set by the technical regulations, energy efficiency regulations, fire and explosion protection regulations, as well as regulations on environmental protection; 4) that the applicant meets prescribed conditions regarding the professional staff for performing technical management, operation and maintenance of energy facilities, i.e. conditions regarding the number and expertise of the employed persons for performing activates of maintenance of energy facilities, as well as the activities of operators in these facilities ; 5) that the applicant possesses financial means required for engaging in energy-related activities; 6) that the plant manager, or members of the management have no valid sentence for criminal offences related to economic activities; 7) that the applicant has not been prohibited to engage in that activity or that the legal consequences of the imposed measure have ceased; 8) that the applicant has evidence on the legal grounds for the use of energy facility in which the energy–related activity is being performed; 9) that the applicant is not subject to any bankruptcy or liquidation procedure. Apart from the above requirements, the applicant for performing of activity of general interest must be founded for the purpose of performing such activity or that it performs such activity as delegated (entrusted) activity in line with the prevailing law, including private-public partnership.

115 License to perform the energy activity is one of the requirements necessary for acquiring the status of privileged producer of electricity and the status of producer of electricity from renewable sources. For more details see section 5 of this Guide

116 The Rulebook on Licenses for Performing Energy Activity and Certification ("Official Gazette of RS", No. 87/15).

License for electricity generation is issued for a period of 30 years.[117]

At the time of license issuance a fee shall be paid to the Agency. In addition, an annual remuneration shall be paid to the Agency for the possession of license.[118]

In case that the license holder ceases to fulfill any of the requirements prescribed for granting the license, or fails to meet any other regulations related to the performance of energy-related activity, the license can be suspended or permanently revoked.

Exceptionally, the license shall not be required for: 1) production of electricity in plants of approved capacity of connection of up to 1 MW or less, except when the same energy entity is engaged in producing electricity in two or more energy facilities of total capacity exceeding 1 MW, irrespective of whether they are connected to the system via one or several connections; 2) production of electricity exclusively for one's own needs.

The Rulebook on Licenses for Performing Energy Activity and Certification defines forms to be used for filing requests for the issuing of licenses for performing energy activity for production of electricity. For production of electricity there are different forms to be used depending on the type of facility for electricity generation.[119]

Along with the request for the issuing of the license to perform energy activity, the following shall be attached: 1) the act of establishment and excerpt from the registry according to the regulation on company registration, and the act on entrusting the performance of the activity of general interest or the concession agreement; 2) the operation permit or the act issued by competent authority confirming that operation permit is not required; 3) report by competent inspector stating that energy facilities and other devices, installations or plant necessary for performance of energy activity fulfill the conditions and requirements prescribed in technical regulations, regulations on energy efficiency, fire-fighting and environmental protection; 4) evidence of fulfillment of financial requirements for performance of energy activity, specifically: 4.1) the statements of competent authority on fulfillment of all tax obligations; 4.2) business program or plan for the year in which the request for the issuing of license is filed; 4.3) confirmation by commercial bank on turnover and average daily balance of assets on all current accounts of the applicant for the two preceding years, 4.4) balance sheet and profit and loss statements for the two preceding years 4.5) standardized report on the applicants creditworthiness: BON 1 – complete report on indicators of creditworthiness, BON 2 – report on financial standing and business operations; 5) certificate by competent authority that the director and the members of the management body have not been sentenced by final court decisions for criminal offences

117 Article 20, para 2, of the Energy Law.

118 License fee is set by the following acts of the Energy Agency: Criteria and standards for determining the amount of fee for the license on engaging in energy-related activities and the Decision on the value of the coefficient for the calculation of the fee for the license on engaging in energy activity for the particular year, www.aers.org.

119 The forms for requests for issuing of energy license from the Rulebook on Requirements and Content of Requests for Issuing, Amending and Revoking the Licenses for Performing of Energy Activity and Maintaining the Registry of Issued and Revoked Licenses: 1) General Form OO1 – when the request for issuing of license is submitted to the Agency, or Form PO 1.4 – Request for issuing of license for production of electricity in solar plants.

related to business activity; 6) document by competent authority confirming that the applicant has not been banned from performing business activity or that the legal implications of pronounced measures have ceased; 7) the legal basis for the use of the energy facility in which the energy activity is performed; 8) act by competent authority that no bankruptcy or liquidation proceeding shave been initiated; 9) statement by applicant that he has not been the owner and has not had shares and has not been employee in any energy facility from whom the license has been permanently revoked, which statement shall include the same statement for spouses, children and relatives of the first order irrespective of degree of kinship or distant relatives to the second degree of consanguinity; 10) evidence of payment of administrative tax (if the applicant has been performing its activity for less than two years, the items 4.3 – 4.5) shall be changed and shall read: 4.3) confirmation by commercial bank on turnover and average daily balance of assets on all current accounts of the applicant since the date of opening the current account until the date of submitting the request to the commercial bank, 4.4) balance sheet and profit and loss statements for the preceding year, or the opening balances in case that the energy entity is just commencing its activity; 4.5) a certificate by the commercial bank or the mother company that it can make available to the applicant the necessary financing or other securities in line with the scope of planned activities).

The licenses are not transferable.

A Registry Book of issued and revoked licenses shall be maintained. This registry book shall be maintained as a public registry in form of a registry book (printed format) and as a single database (electronic format).

The Registry Book of issued and revoked licenses shall be available at the website of the Energy Agency of the Republic of Serbia, and access and insight into the register can be exercised in the official premises of the Energy Agency of the Republic of Serbia.

5.

ACQUIRING THE STATUS OF (PRIVILEGED) ELECTRICITY PRODUCER FROM RENEWABLE SOURCES

5. STATUS OF PRODUCER OF ELECTRICITY IN SOLAR PLANTS

The Energy Law prescribes the possibility of acquiring different types of status for producers of electricity in solar plants of the following installed capacity:

1) 2 MW for solar plants in facilities of individual capacity of up to 30 kW;
2) 2 MW for solar plants in facilities of individual capacity from 30 kW to 500 kW;
3) 6 MW for terrestrial solar plants of individual capacity up to 500 kW.

Energy entities and natural persons can acquire the status of preliminary privileged electricity producer, the status of privileged electricity producer, and the status of producer from renewable energy sources.

Energy entities which own solar plants can acquire the status of preliminary privileged electricity producer, the status of privileged electricity producer, and the status of producer from renewable energy sources provided that the plant in the process of generating electricity utilizes a renewable source of energy – the energy of solar radiation, provided that the energy generation is performed in newly built or reconstructed plants in which new unused equipment is installed, provided that the installed capacity of the solar plant is less than or equal to the free capacity determined by the bylaw adopted under the Energy Law[120] and provided that it meets other requirements prescribed by the Energy law and the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources[121]. In case of solar plants, the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer[122] prescribes that the sum total of installed capacities for solar plants – maximum capacity, for which the status of privileged or preliminary privileged producer can be acquired, is determined for different types of solar plants in the following manner: 1) 2 MW for plants of individual capacity up to 30 kW; 2) 2 MW for plants in facilities of individual capacity from 30 kW to 500 kW, and 3) 6 MW for terrestrial plants of individual capacity up to 500 kW.

There is an additional requirement for natural persons in order to acquire the status of privileged electricity producer, preliminary privileged electricity producer and electricity producer from renewable energy sources, this requirement being that this status can be acquired for one plant only, and since the subject of this activity is solar plant of capacity up to 30 kW, it means for only one solar plant of installed capacity of up to 30 kW.[123]

The Energy Law stipulates that privileged electricity producers shall be entitled to: 1) incentives, such as: 1) the obligation of electricity purchase from a privileged producer, 2) the prices at which such electricity shall be purchased, 3) the period of validity of the obligation to purchase the electricity; 4) the taking over of balance responsibility, 5) other incentives

120 The Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources ("Official Gazette of RS", No. 56/16).
121 The Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources
122 The Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources
123 Article 70, para 5, of the Energy Law.

prescribed by a by-law adopted on the basis of the Energy Law, as well as to other laws and regulations governing taxes, customs duties and other fees, environmental protection and energy efficiency.

Incentives shall be available for energy entities and natural persons who have acquired the status of privileged producer and status of preliminary privileged producer in line with the Energy Law and by-laws adopted under this law[124].

The privileged producer and the preliminary privileged producer shall exercise the right to incentives as of the coming into effect of the power purchase agreement signed with the guaranteed buyer, in line with the Energy Law and by-laws adopted under this law.

The Energy Law also regulates the procedure for the filing of applications for the status of preliminary privileged producer of electricity, the status of privileged producer of electricity and the status of producer from renewable sources. On the basis of the Energy Law, the Government has adopted the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources[125], the Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat[126] and the Decree on Power Purchase Agreements[127]. The Government has also adopted the Decree on Fees for Incentives for Privileged Electricity Producers[128], and the Decree whereby it regulated the amount of incentives fee for 2016.[129] The fee is to be set every year.

Energy entities and natural persons cannot at the same time have the status of producer from renewable energy sources and the status of privileged producer for the same solar plant.

The Energy Law[130] prescribes that solar plants which fulfill the prescribed requirements may, prior to acquiring the status of privileged electricity producer, acquire the status of preliminary privileged electricity producer.

The Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources prescribes certain obligations of the privileged electricity producer, preliminary privileged electricity producer and electricity producer from renewable energy sources.[131]

124 The Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary privileged Electricity Producer and Electricity Producer from Renewable Energy Sources, the Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat ("Official Gazette of RS", No. 56/16) and the Decree on Power Purchase Agreement ("Official Gazette of RS", No. 56/16).

125 The Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary privileged Electricity Producer and Electricity Producer from Renewable Energy Sources ("Official Gazette of RS", No. 56/16).

126 Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat ("Official Gazette of RS", No. 56/16).

127 The Decree on Power Purchase Agreement ("Official Gazette of RS", No. 56/16).

128 The Decree on Fees for Incentives for Privileged Electricity Producers ("Official Gazette of RS", No. 12/16).

129 The Decree on the Amount of Special Fee for Incentives for the Year 2016 ("Official Gazette of RS", No. 12/16).

130 Article 71 of the Energy Law.

131 Articles 27-29 of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

5.1. Acquiring the status of preliminary privileged electricity producer

Energy entities and natural persons can, prior to acquiring the status of privileged producer, acquire the status of preliminary privileged electricity producer, provided that:

1) They can begin constructing the solar plant for which it is possible to acquire the status of privileged electricity producer[132], according to the Law on Planning and Construction;
2) They have obtained the financial security instrument[133], in case that they do not acquire the status of privileged electricity producer for solar plant of installed capacity exceeding 100 kW;
3) It is visible from the technical documentation that the planned solar plant can acquire the status of privileged electricity producer, as regulated in more detail by Article 5, item 3) of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

Application for acquiring the status of preliminary privileged electricity producer shall be filed to the ministry in charge of energy by using the form O-1[134]. Along with the applications, the following attachments should be provided: 1) for legal persons or entrepreneurs: excerpt of registered data (business name, legal form, registered seat, business activity, tax identification number, corporate identification number); 2) for a natural person: a photocopy of the identity card or citizenship certificate or a photocopy of the passport if the applicant is a foreign national; 3) final and enforceable building permit or final and enforceable approval for construction, unless for the solar plant it is not necessary to obtain decision of the competent authority for construction, in which case information on the location not older than 6 months; 4) copy of excerpt of design for the purpose of acquiring the building permit, or the preliminary design or other technical documents on the basis of which the solar plant is built, in accordance with the law governing the planning and construction of structures; 5) for solar plants integrated in a structure it is necessary to provide the list of immovable property for the structure on which the installation of the plant is planned if the evidence from item 3) is not sufficient to demonstrate which structure the plant is planned to be installed on; 6) document (opinion, conditions, etc.) about the possibility for connection to the distribution or transmission system issued by the operator of the transmission or distribution system obtained in previous procedures for purpose of issuance of the building permit and preparation of technical documentation for the solar plant; 7) confirmation of payment of the cash deposit, or the original copy of the bank guarantee obtained in accordance with the provisions of this Decree; 8) evidence of payment of administrative tax.[135][136]

132 Requirements from Article 70, para 1 and 2, of the Energy Law.

133 Financial security instrument is determined in more detail in Article 7 of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources ("Official Gazette of RS", No. 56/16), in form of a money deposit or bank guarantee. The webpages of the ministry in charge of energy (http://www.mre.gov.rs/energetska-efikasnost-obnovljivi-izvori-procedure.php) states the number of the account to which deposits are paid and the model bank guarantee.

134 Form O-1, version of 16 June 2016, www.mre.gov.rs, (Request for issuance of decision on granting the status of preliminary privileged electricity producer).

135 Article 21 of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

136 The webpages of the ministry in charge of energy (http://www.mre.gov.rs/energetska-efikasnost-obnovljivi-izvori-takse.php) contains the model payment order for this tax.

For energy plants utilizing solar energy the status of preliminary privileged electricity producer shall be valid for a period of one year of the enforceable decision granting such preliminary status of privileged producer of electricity.

The status of preliminary privileged producer can be extended for the following reasons: 1) only once by a maximum of one year, provided that the application for extension provides evidence that the solar plant has been constructed[137] or 2) for a period necessary to remove consequences of unpredictable events[138] which prevent the preliminary privileged producer to acquire the status of privileged producer according to the Energy Law. The period needed to remove consequences of unpredictable events cannot be longer than the period of validity of the status of preliminary privileged producer.

This application can be filed at the latest 30 days before the expiry of the validity of the privileged producer status. The decisions regarding the application is made by the competent ministry in charge of energy within 30 days of the date of filing the application. Appeals can be lodged against such a decision to the Government within 5 days of receipt thereof.

The status of preliminary privileged producer can be revoked.[139]

The preliminary privileged producer can exercise the right to incentive measures according to the Energy Law, the Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat, the signed power purchase agreement with guaranteed supplier under suspended conditions[140].

The guaranteed supplier is obliged, at the request of the preliminary privileged producer, to sign the power purchase agreement with suspended condition within 30 days of the date of filing the request. The preliminary privileged producer who, according to the Energy Law ("Official Gazette" of RS, No. 145/14), acquires the status of privileged producer is entitled only to such incentive measures as were valid on the date of filing the application for such status of temporary privileged producer.[141]

The rights and obligations of the preliminary privileged producer with respect to using incentives during the trial run of the solar plant are prescribed by the bylaws adopted under the Energy Law[142].

5.2. Acquiring the status of privileged electricity producer

Energy entities and natural person can acquire the privileged electricity producer status (hereinafter: privileged producer) for a plant or a part thereof, provided that: 1) in the process of power production they use renewable energy sources and fulfill requirements on

137 Article 23 of the Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat prescribes the evidence to be attached to the application for extension of the validity of status of preliminary privileged producer when the plant is constructed.

138 Such unpredictable circumstances are regulated in more detail in Article 15 of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources, and documents attached as evidence of unpredictable circumstances are prescribed by Article 24 of this Decree.

139 The status of preliminary privileged producer shall be revoked if: 1) the decision granting the status was made on the basis of false data; 2) it does not fulfill the obligations prescribed by the Energy Law and acts adopted on the basis of this law; 3) the acts based on which the status of privileged producer have been suspended, annulled or put out of effect by enforceable decision; 4) it does not maintain the financial security instrument during the validity of the privileged producer status.

140 Elements of the Power Purchase Agreement are regulated in more detail by the Decree on Power Purchase Agreement ("Official Gazette of RS", No. 56/16), and the model agreement is available at www.mre.gov.rs.

141 Article 77, para 3, of the Energy Law.

142 The Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat ("Official Gazette of RS", No. 56/16).

installed capacity; 2) it is built and fit for use according to the law regulating construction; 3) it has ensured the special measurement, separate from measurement in other technological processes, to measure the taken and delivered power from and to the system, with clearly marked measuring devices installed according to the Energy Law and codes of operation of the transmission or distribution system; 4) it produces power in newly built or reconstructed plants with installed unused equipment; 5) it holds a license to perform energy activity according to the Energy Law; 6) it utilizes the solar radiation energy, with a maximum capacity as follows: 6.1) 2 MW for plants integrated on a structure of individual capacity up to 30 kW; 6.2) 2 MW for plants integrated on structures of capacity from 30 kW to 500 kW and 6.3) 6 MW for terrestrial plants of individual capacity up to 500 kW, and 7) it also fulfills other requirements according to the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

The status of privileged producer is granted for installed capacity of the solar plant or part of the solar plant which is equivalent to the total approved capacity by the system operator for the connection of the solar plant or part of the solar plant to the distribution or the transmission system[143].

A producer performing power generation activity in more than one solar plant using renewable sources which fulfill the criteria for acquiring of the privileged electricity producer status under the said decree, shall file a request for acquiring the privileged electricity producer status for each plant separately.

A producer performing power generation activity in solar plant consisting of different generation units, may acquire the privileged status only for such production units which fulfill the requirements prescribed by the Energy Law and the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

It is prescribed that at points of connection to the transmission and distribution systems of the production unit for which the application for status of privileged producer is submitted there must be special measuring devices installed to measure electricity with its characteristics according to the Energy Law and codes of operation of the distribution and transmission systems. Apart from measuring devices, these production units also must have marked measuring points at which to measure total produced heat, return heat and consumption of primary energy.

143 Article 3, para 2, of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

The application for the privileged producer status shall be filed to the ministry in charge of energy by using the Form O-2.[144]

Application for acquiring the status of privileged electricity producer shall enclose evidence of fulfillment of requirements, specifically: 1) for legal persons or entrepreneurs: excerpt of registered data (business name, legal form, registered seat, business activity, tax identification number, corporate identification number); 2) for a natural person: a photocopy of the identity card or citizenship certificate or a photocopy of the passport if the applicant is a foreign national; 3) operation permit in compliance with the law regulating planning and construction or certificate by competent authority that the solar plant or part of the solar plant does not require an operation permit; 4) for solar plants integrated in a structure it is necessary to provide the list of immovable property for the structure on which the installation of the plant is planned if the evidence from item 3) is not sufficient to demonstrate which structure the plant is installed on; 5) for reconstructed plants: evidence on reconstruction of the plant stating date of construction and commissioning of the reconstructed plant, if evidence from item 3) does not demonstrate that the plant has been reconstructed; 6)) approval for connection of the solar plant and diagram of measuring devices; 6) evidence that the installed equipment has not been used before, such as: data on year of production, invoices for procurement of works and equipment, contract with contractor/supplier, producer's/supplier's declaration or other similar evidence showing beyond doubt that the installed equipment has not been used before; 7) certified statement of the responsible person of the producer stating under material and criminal liability that the installed equipment as not been used before; 8) a license to perform energy producing activity according to the Energy Law; 9) evidence of paid administrative tax.[145,146]

The privileged producer status is granted by the ministry in charge of energy by its decision which is to be made within 30 days of filing the application for acquiring the privileged producer status, provided that all requirements are fulfilled. Appeals can be lodged against such a decision to the Government within 15 days of receipt thereof.

The privileged electricity producer is obliged to notify the ministry in charge of energy of all changes of data from the prescribed form, i.e. all changes of the planned technological process, types of primary fuels and other characteristics of the solar plant which are relevant for the acquisition of the privileged electricity producer status according to the Energy Law and the said Decree, not later than 30 days prior to commencement of planned works.

The status of privileged producer can be revoked if: 1) the decision granting the status was made on the basis of false data; 2) it does not fulfill the obligations prescribed by the

144 Form O-2, version of 16 June 2016 (Request for issuance of decision on granting the status of privileged electricity producer), www.mre.gov.rs.

145 Article 20 of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

146 The webpages of the ministry in charge of energy (http://www.mre.gov.rs/energetska-efikasnost-obnovljivi-izvori-takse.php) contains the model payment order for payment of this tax.

Energy Law and acts adopted on the basis of this law; 3) the producer produces electricity contrary to conditions under which the status of privileged electricity producer was granted; 4) if the acts based on which the status of privileged producer status was granted have been suspended, annulled or put out of effect by enforceable decision.

The Ministry in charge of energy shall keep the register of privileged electricity producers, preliminary privileged producers, and producers from renewable sources. The register shall consist of the main and auxiliary registries. The webpages of the ministry in charge of energy[147] shall, within the main registry, separately present the data on producers who have the status of privileged electricity producers, preliminary privileged producers, and producers from renewable sources, and separately data on producers whose status has expired. The auxiliary registries shall contain data relevant to maintaining of data and transparency of inscription of data on wind and solar plants into the main registry. According to the prevailing regulations, the ministry shall update data in the main registry without delay when finding out about reasons for updating and shall present the most recent updating date visibly at its webpage. The auxiliary registry shall be updated and published once a month.

5.2.1. Incentives for electricity producers from solar radiation energy

Incentives for privileged electricity producers are prescribed by the Energy Law and the Decree on Incentive Measures for production of Electricity from renewable energy sources and from High-efficiency Combined Production of Electricity and Heat[148] and they include: 1) the incentive period lasting for 12 years, starting from the day of taking the reading of electricity in the solar plant or part thereof, on the day following the day of granting the status of privileged electricity producer, except when the duration of the period of incentives is otherwise determined by the above Decree or power purchase agreement; 2) the incentive feed-in tariffs[149] at which the privileged and preliminary privileged producers sell the relevant amount of produced power to the guaranteed supplier during or before the period of incentive measures; 3) taking over of balancing responsibility at the point of taking-over the electricity of the privileged producer by the guaranteed supplier during the incentive period; 4) taking over the costs of balancing the privileged producer by the guaranteed supplier during the incentive period; 5) free access to the power transmission and distribution systems.

Incentive measures can also be prescribed by regulations governing taxes, customs and other duties, or subsidies and other incentives, environmental protection and energy efficiency.

Preliminary privileged producer is entitled, as of the date of power purchase agreement until the expiry of the incentive period, to exercise the said incentive measures.[150]

147 http://mre.gov.rs/doc/registar%2023.06.2016.html

148 The Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat ("Official Gazette of RS", No. 56/16).

149 The incentive feed-in tariff is a form of operational state aid to privileged and preliminary privileged power producers according to state aid rules aimed at promoting electricity generation from renewable energy sources and from high-efficiency co-generation of electricity and heat.

150 Article 3, para 2, the Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat.

The Energy Law[151] and the Decree on Power Purchase Agreements[152] regulate in more detail the contents and other provisions of power purchase agreements. The model agreement is available at the webpage of the ministry in charge of energy.[153]

Along with the request for the signing of this agreement, which is submitted in writing, the privileged producers shall submit to the guaranteed supplier the decision granting the status of privileged electricity producer, and the preliminary electricity producer the decision of acquiring the status of preliminary electricity producer, as well as other documents stipulated in the power purchase agreement. For parts of solar plants no separate agreement is signed, but an annex which makes up an integral part of the power purchase agreement for the solar plant to which the part of the plant belongs.

The guaranteed supplier is obliged to sign an agreement with the privileged producer and the temporary privileged producer within 30 days of receipt of the request. The privileged producer and the temporary privileged producer have the right to terminate the agreement before expiry of the incentives period and are obliged in such a case to notify in writing the guaranteed supplier at least 30 days prior to termination. An agreement terminated by the privileged producer in this manner cannot be signed again for the same solar plant of the privileged producer.

The Energy Law and the Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat prescribe the obligations of the privileged electricity producer: 1) to sell the total amount of produced electricity exclusively to the guaranteed supplier; 2) to maintain records of utilized energy sources; 3) to submit operation plans to the guaranteed supplier, when the installed capacity of the solar plant exceeds 5 MW and to fulfill other obligations towards the guaranteed supplier set forth in the power purchase agreement; 4) to notify the ministry if the guaranteed supplier does not fulfill obligations from the power purchase agreement; 5) to notify the ministry of actions by state authorities, holders of public powers, authorities of autonomous province or authorities of units of local self-government which are relevant to the exercising of obligations or exercising of rights with respect to incentive measures.

The Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat prescribes the incentive feed-in tariffs which differ depending on the type of solar plant and its installed capacity and the maximum effective operation hours, as follows:

151 The Energy Law prescribes the mandatory elements of the power purchase agreements: 1) type and installed capacity of the privileged producer's plant; 2) place of taking-over the energy into the system; 3) place and method of measurement; 4) the price of electricity and the conditions for price change; 5) the method and dynamics of calculations, invoicing and payment; 6) interest rate in case of late payments; 7) payment security instruments; 8) obligation of guaranteed supplier with respect to taking over the balancing responsibility and of the privileged producer with respect to planning the operation of the plant; 9) incentive measures during the trial run period, when the agreement is signed by the preliminary privileged producer; 10) and other elements in line with the by-laws adopted under the Energy law.

152 The Decree on Power Purchase Agreements ("Official Gazette of RS", No. 56/16).

153 http://mre.gov.rs/dokumenta-efikasnost-izvori.php

154 The maximum effective time of operation of the plant or a part of the plant is the prescribed effective time of operation which is calculated for a year of the incentive period which is equivalent to the amount of produced power for which the privileged producer is entitled to incentive feed-in tariffs.

155 A year of the incentive period is a part of the incentive period lasting for one year, where the first year of the incentive period begins as of the first day of the incentive period.

Serial number	Type of plant	Installed capacity P (MW)	Feed-in tariff (c€/kWh)	Maximum effective operation hours[154] (h)
1.	Solar plants	Installed on the structure Up to 0.03	14.60 – 80*P	1400 per year of incentive period[155]
2.	Solar plants	Installed on the structure 0.03 – 0.5	12.404 – 6.809*P	
3.	Solar plants	Terrestrial	9	

The same decree prescribes maximum amount of power produced[156] and the feed-in tariff[157] of electricity. It is necessary to make a distinction between the incentive feed-in tariff and the purchase price of electricity. Namely, this decree prescribes the obligation of the privileged producer to sell the total amount of produced electricity exclusively to the guaranteed supplier, and in case that such a producer produces more energy than the quantity for which incentive feed-in tariffs are agreed, that surplus shall be governed by provisions on purchase prices for electricity produced by the privileged producer. Under this rule, until the expiry of every year within the incentive period, the additional electricity on top of the maximum produced electricity shall be purchased by the guaranteed supplier from the privileged producer at the purchase price which is 35% of the incentive feed-in tariff.

The privileged electricity producer for reconstructed solar plants can exercise the right to incentive feed-in tariffs in the amount of 70% of the prescribed total price, while the preliminary privileged producer as of the beginning of the incentive period exercises the right to inc

Incentive feed-in tariffs are expressed in (c€/kWh) and rounded to two decimal points.

The Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat prescribes the formula to be used for regular annual adjustments of incentive feed-in tariffs due to inflation in the Euro-zone. Such adjustments are made in February every year, starting from the year 2017. This Decree shall be in effect until 31 December 2018. The transitional provisions stipulate the rules for privileged producers who have already signed power purchase agreements for power produced from renewable sources and the protection of their rights.

The reading of the electricity meters at the location of the privileged producer who has signed a power purchase agreement with the guaranteed supplier shall be performed every first day of the month, free of charge, by the transmission and distribution system operator and at the latest by the fifth day of the month such read values for the preceding month shall be notified to the privileged producer and the guaranteed supplier. The operator of the transmission and the distribution system shall be obliged, prior to signing the agreement[158]

156 The maximum produced electricity which can be purchased at incentive feed-in tariffs is calculated as: $E_{el\ max} = P * t_{max}$, where: $E_{el\ max}$ – maximum produced electricity for which the privileged producer is entitled to incentive feed-in tariffs by the guaranteed supplier at tariffs stated in the above table, expressed in kWh; P – installed capacity of the plant or part thereof, expressed as kW; t_{max} – maximum effective time of operation as stated in the table, expressed in h.

157 The purchase price is the price of electricity at which the guaranteed supplier purchases from the privileged producer the additional produced electricity above the maximum produced electricity for the year within the incentive period or by a quarter of the incentive period.

158 The exception to this rule is when the power producer from renewable sources, who has acquired the preliminary power producer status and then signed the power purchase agreement with suspended condition – with the guaranteed supplier, in which case the power purchase agreement was already signed before the plant was already constructed and the measuring instrument installed. In such cases the above described reading of the meter shall be done at the time when the agreement comes into use or when the conditions suspending the implementation of the agreement cease to exist, which is the acquisition of the privileged power producer status.

to read the meter and notify the read values to the privileged producer and the guaranteed supplier within three days of the day of receiving the request of the privileged producer.

The Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat prescribes numerous provisions in order to achieve legal certainty for all parties related to exercising the incentive measures for power production from renewable sources.

The right to incentive measures shall cease as of the moment when the status is lost, or the power purchase agreement is suspended or terminated under conditions stated in the power purchase agreement and according to other prescribed conditions. This right shall cease irrespective of the will of the guaranteed supplier and the privileged producer in cases and under conditions stipulated in the power purchase agreements.[159]

5.3. Status of electricity producer from renewable sources

Apart from the status of privileged electricity producer and the status of preliminary privileged electricity producer, there is also the status of electricity producer from renewable sources.

The energy entity may acquire the status of electricity producer from renewable sources (hereinafter: producer from renewable sources) for the specific solar plant provided that: 1) in the process of production the plant uses renewable energy sources; 2) the plant is constructed and fit for operation according to the law on construction; 3) the plant has facilities for measurement, separate from measurement in other technological processes, intended to measure the supplied and taken over electricity or thermal energy into the system; 4) the producer has a license to perform the specific activity according to the Energy Law; 5) it also fulfills other requirements prescribed by the Energy Law and the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

The status of electricity producer from renewable sources can be acquired also by a natural person which produces electricity from renewable sources for only one solar plant of installed capacity up to 30 kW under the conditions prescribed by the Energy Law. Energy entities and natural persons cannot at the same time have the status of producer from renewable sources and the status of privileged producer for the same solar plant.

The request for acquiring the status of producer from renewable sources shall be filed to the ministry in charge of energy using the Form O-3[160], along with documentation whose content is prescribed by the Energy Law and the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

159 Article 13 of the Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat.

160 Form O-3, version of 16 June 2016 (Request for issuance of decision on granting the status of power producer from renewable energy sources), www.mre.gov.rs.

The request for status of producer from renewable sources shall attach the following: 1) for legal person or entrepreneur: excerpt of registered data (business name, legal form, registered seat, business activity, tax identification number, corporate identification number); 2) for a natural person: a photocopy of the identity card or citizenship certificate or a photocopy of the passport if the applicant is a foreign national; 3) operation permit in compliance with the law regulating planning and construction or certificate by competent authority that the solar plant or part thereof does not require an operation permit; 4) approval for connection of the solar plant and diagram of measuring devices; 6) a license to perform energy producing activity according to the Energy Law; 9) evidence of paid administrative tax.[161]

The status of producer from renewable sources is granted by the ministry in charge of energy within 30 days of filing of the application.

Appeals against the decision can be lodged to the Government within 15 days of receipt thereof.

Producer from renewable sources has the right to receive the guarantee of origin and has prior right to sell the produced energy to the transmission and distribution network, except in cases when the security of supply or safety of operation of the transmission or distribution system is at risk.[162]

The status of producer from renewable sources shall be revoked if: 1) the decision granting the status was made on the basis of false data; 2) it does not fulfill the obligations prescribed by the Energy Law and acts adopted on the basis of this law; 3) the producer produces electricity contrary to conditions under which the status of producer from renewable sources was granted; 4) if the acts based on which the status of producer from renewable sources have been suspended, annulled or put out of effect by enforceable decision.

The status of producer from renewable sources shall be terminated as of the day of enforceability of decision on revoking the status of producer from renewable sources or the date of the decision granting such status is no longer in effect, as well as on the basis of statement of the producer requesting the termination of the decision granting it such status of producer from renewable sources.

161 Article 25 of the Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources.

162 Article 162, para 1, of the Energy Law.

6.

SPECIAL PROCEDURES

6. SPECIAL PROCEDURES

6.1. Guarantee of origin[163]

Guarantee of origin is a document the exclusive function of which is to prove to the end buyer that the given share or quantity of energy has been generated from renewable energy sources. The Guarantee of origin is issued exclusively to producers generating energy from renewable energy sources who have acquired the status of electricity producer from renewable sources[164].

The guarantee of origin for energy produced from renewable energy sources shall contain in particular: 1) name, location, type, and power of the production capacity; 2) date of commissioning of the facility or part thereof; 3) data on transmission system operator in charge of issuing the guarantee of origin; 4) date of commencement and finalization of production of energy for which the guarantee of origin is issued; 5) information from the written statement of the applicant as to whether an investment backing from national funds has been used for construction of the production capacity and the type of such backing; 6) information whether the feed-in tariff was used; 7) date and country of issuing and company identification number; 8) the unique identification number of the guarantee of origin.

Applications for the issuing of guarantees of origin shall be submitted by energy entities which have acquired the status of electricity producer from renewable sources.

Applications for the issuing of guarantees of origin shall be submitted only for the part of delivered electricity produced from renewable sources.

Applications for the issuing of guarantees of origin shall be submitted from the user account in the registry of guarantees of origin.

Decisions regarding the applications for guarantees of origins hall be made by the transmission system operator.

Guarantees of origin shall be issued only for the part of electricity which is produced from renewable sources or the part which is proportional to the share of electricity produced from renewable sources in the total produced electricity.

The day of commencement of validity of the guarantee of origin shall be the last day of the calculation period of production to which the guarantee refers.

Guarantees of origin shall be issued only once for one quantity of electricity of 1MWh produced in a certain time period.

Guarantees of origin shall be valid for a period of one year after the last day of the period of production for which they are issued.

Guarantees of origin shall not be transferable. The transfer of guarantee of origin from one to another user account shall be performed on the basis of transparency and non-discrimination. Such transfer shall be made by the transmission system operator at the request of the owner of the guarantee of origin.

Guarantees of origin shall cease to be valid when: 1) the owner decides to use it; 2) the

163 The Rulebook on Guarantees of Origin for Electricity Produced from Renewable Sources.
164 Article 82 of the Energy Law. For more details see the footnote 188 of this Guide.

validity period expires; 3) the transmission system operator withdraws the guarantee.

When an owner of the guarantee of origin decides to use the guarantee of origin and submits the request for its use, the transmission system operator shall issue the statement of use within eight days.

Guarantees of origin can be used only once.

Guarantees of origin which have ceased to be valid shall be recorded in the registry book.

The transmission system operator shall establish and maintain the registry book of guarantees of origin in electronic form and in accordance with the law, the Rulebook on Guarantees of Origin for Electricity Produced from Renewable Sources and international standards of the European System of Power Certification.

It should be noted that guarantees of origin issued in other countries shall be valid under conditions of reciprocity also in the Republic of Serbia and in line with the confirmed international agreements.

6.2. Acquiring the right to utilize natural resources

The Law on Public-Private Partnership and Concessions stipulates that concessions can grant the right to commercial utilization of natural resources.[165]

The procedure of acquiring a concession is regulated in details by the Law on Public-Private Partnership and Concessions. In some elements of the procedure there is a reference to the Law on Public Procurement. The legal basis of the concession is the concession agreement. The concession can be granted for a minimum of 5 and a maximum of 50 years[166], unless otherwise regulated by another law.

It is prescribed that the setting of the terms and the procedure of concluding a concession agreement is based on the principles of: 1) protection of public interest, 2) efficiency, 3) transparency, 4) equal and unbiased treatment, 5) free market competition, 6) proportionality, 7) protection of environment, 8) autonomy of will and 9) equal status of the parties to the agreement. When conducting the concession granting procedure, the grantor shall also apply, with respect to all participating parties: 1) the principle of free movement of goods, 2) the principle of free provision of services, 3) the principle of non-discrimination and 4) the principle of mutual recognition.

165 The Law on Public-Private Partnership and Concessions ("Official Gazette of RS", No. 88/11 and 15/16) stipulates that the concession is a contractual public-private partnership with elements of concession, where the public agreement governs commercial use of a natural resource, or assets in public use which are public property or engagement in an activity of public interest, entrusted by the public body in charge to a domestic or foreign person, for a specific period of time, under specific conditions, against payment of concession fee by the private, or public partner, and where the private partner bears the risk related to the commercial use of the object of concession.

166 General time period for concessions is determined by the Law on Public-Private Partnership and Concessions

6.2.1. Concession granting procedure

The concession granting procedure is carried out by a public body[167].

Every public contract (including public contract with elements of concession – concession deed) is granted through a procedure launched by publishing a public call in Serbian and a foreign language commonly used in the foreign trade. The Law on Public-Private Partnership and Concessions[168] prescribes the concession granting procedure, the deadline for receipt of offers (minimum 60 days)[169], confidentiality and secrecy of data from the submitted offer etc.

6.2.2. Concession deed setting procedure

The concession granting procedure is preceded by a procedure determining the proposed concession deed.

This procedure begins with developing the draft concession deed. Before developing the proposal for the adoption of the concession deed, the public body nominates an expert team for the preparation of tender documentation which performs: 1) assessment of the concession value; 2) prepares the feasibility study for the granting of concession and 3) undertakes all other activities preceding the concession granting procedure. The motion to adopt the concession deed for the granting of concession for the use of natural resources is submitted to the Government.

After the adoption of the motion on adopting the concession deed the drafted concession deed becomes a concession deed, containing all elements of the draft, i.e.: 1) subject matter of the concession; 2) reasons for granting the concession; 3) possible revoking of entrusted activities and revoking the right to use property items for performing the entrusted activities; 4) data on the impact of concession activity on environment, infrastructure and other fields of economy, as well as on efficient functioning of technical and technological systems; 5) minimum technical and financial qualifications and experience that the participant in the procedure must fulfill in order to qualify to participate in the procedure of selection of the concessionaire and negotiations; 6) validity of the concession, including justification of the proposed time period; 7) data on required financial and other means and the time schedule of their investment, manner of payment, presentation of guarantees or other securities for performing concession-related obligations, rights and obligations of the concessionaires towards the customers/ users of services which are the subject

167 Pursuant to the Law on Public-Private Partnership and Concessions, the public body is: 1) government authority, organization, institution and other direct or indirect budget beneficiary in term of the laws governing the budget system and the budget, as well as organization for mandatory insurance; 2) public company; 3) legal person performing the activity of public interest provided that one the following conditions is met: 3.1) that more than one half of the managing body(ies) of that legal person are representatives of the public body; 3.2) that the representatives of the public body have more than one half of votes in the managing body of that legal person; 3.3) that the public body performs supervision of the operation of that legal person; 3.4) that the public body has more than 50% of stocks, or share in that legal person; 3.5) that more than 50 % is financed from the public body finances; 4) legal person is established by the public body, which is also engaged in an activity of public interest and fulfills at least one of the conditions from the previous item.

168 The Law on Public-Private Partnership and Concessions is applied to all public contracts which are not exempted and whose estimated value not including VAT is equal to or higher than the lower limit below which public bodies are not obliged to apply the law regulating public procurements, as set in the law regulating the annual budget of the Republic of Serbia.

169 Article 37 of the Law on Public-Private Partnership and Concessions.

matter of the concession and issues related to the complaints by these users, issues of the terms and manners of performing supervision, and prices and general terms of utilizing the assets and performing the activity; 8) data on fees payable by grantor and concessionaire[170]; 9) estimate of the number of job positions and qualified labor related to the execution of concession, if it is proposed to be a component part of the concession deed.

A particularly important role is that of the expert team of the public body, which, besides the activities on the preparation of the concession deed, also has the following tasks in the concession granting procedure: 1) providing expert assistance to the public body in the preparation of necessary analyses, or feasibility studies on granting the concession, in the preparation and elaboration of requirements and tender documentation, rules and conditions for evaluation of the bidders and received bids, as well as criteria for the selection of the bid; 2) reviewing and evaluation of the received bids; 3) defining the draft decision on the selection of the best bid for granting the concession or proposal of the decision to annul the procedure of granting the concession and the justification of these proposals; 4) carrying out other activities necessary for completing the concession granting procedure. The expert team for concessions records minutes about its work and makes other documents that are signed by all team members.

When preparing the feasibility study on concession granting, the public body specifically takes into consideration the public interest, environmental impacts, working conditions, protection of nature and cultural assets, and financial effects of the concession on the budget of the Republic of Serbia.

6.2.3. Concession agreement concluding procedure

The concession granting procedure starts on the date of publishing the public call in the "Official Gazette of the Republic of Serbia", and ends on the date of final decision on selection of the most favorable bid or making of the final decision on annulment of the concession granting procedure.

The tender documentation shall contain: 1) the bid form, 2) contents of the bid, 3) validity of the bid, 4) description of the subject matter of the concession (technical specifications), 5) draft of the public concession agreement, 6) requirements and evidence that the bidders should submit with the bid as proof of their qualification, 7) request for submission of the full list of subsidiaries, 8) deadline for the decision on the selection of the most favorable bid, as well as 9) all other terms and conditions to be met by the bidder.

170 It is unclear what concession granting fees apply to the grantor.

The public call shall include the following data: 1) contact data of the grantor; 2) subject matter of the concession, including the nature and scope of the concessionary business, place of the concessionary business and the concession validity period; 3) deadline for submission of bids, address to which the bids are to be delivered, language and script of the bids; 4) personal, professional, technical and financial conditions that the bidders must comply with, as well as documents proving such compliance; 5) criteria for the selection of the most favorable bid; 6) date of delivery of the notice on the result; 7) name and address of the body in charge to decide on appeals for the protection of rights, as well as data on terms for their submission.

Prior to the commencement of the concession granting procedure, the grantor is obligated to indicate in the tender documentation and pubic call the obligation of the bidder to submit a bid bond (hereinafter referred to as "the bid bond"). The grantor shall determine the amount of the bid bond in an absolute figure. The bid bond shall not exceed 5% of the estimated value of the concession.[171]

The criteria upon which the grantor's decision on the most favorable bid is based are: 1) in case of the economically most favorable bid from the grantor's point of view, the criteria related to the subject matter of the concession, such as: quality, amount of fee, price, technical solution, esthetic, functional and environmental features, price of the service for the end users, operation expenses, cost-efficiency, servicing after the hand-over and the technical assistance, delivery date and deadlines for delivery or for the completion of works or 2) the highest offered concession fee.

The grantor shall make its decision on the selection of the most favorable bid for which it will propose signing of the public concession agreement. The grantor shall not sign the public concession agreement before expiry of the stay, amounting to 15 days from the date of delivery of the decision on the most favorable bid to each bidder.

The deadline for the decision on the most favorable bid must be appropriate and it starts on the date of expiry of the time for submission of bids. Unless otherwise indicated in the tender documentation, the deadline for the decision on the most favorable bid is 60 days.

The decision on the most favorable bid includes: 1) name of the grantor with the number and date of the decision; 2) name of the bidder; 3) subject matter of the concession; 4) nature, scope and the place of performing the concessionary business; 5) validity period of the concession; 6) special conditions to be met by the concessionaire during the concession period; 7) amount of the concession fee or grounds for defining the amount of the concession fee to be paid by the concessionaire or by the grantor[172]; 8) time period within which the most favorable bidder should sign the public concession agreement with the grantor; 9) time period within which the grantor may invite other bidders

171 Other characteristics of the bid bond are determined in Article 38 of the Law on Public-Private Partnership and Concessions.
172 It is unclear what concession granting fees apply to the grantor.

to sign the concession agreement in case that the most favorable bidder fails to do it, as well as the obligation to extend the period of bid binding and the period of validity of the bid bond; 10) justification of the reasons for selection the most favorable bidder; 11) remedy; 12) signature of the responsible person and the stamp of the grantor.

6.2.4. Concession agreement

The concession agreement governs the rights and obligations of the state/government as the grantor and the user of the concession (concessionaire). The agreement specifically sets the time, place and manner of using the concession and the obligation to pay the concession fee.

If the concession is granted to more than one person, the concession agreement shall be signed with each concessionaire or person authorized by it by means of a special power of attorney.

Setting the provisions and terms of the public agreement the public partner regulates the following issues: 1) type and scope of works to be executed and/ or services to be rendered by the private partner and the conditions for their provision, provided that they were specified in the public call; 2) distribution of risk between the public and the private partner; 3) provisions on the minimum required quality and standard of services and works in the public interest or the users of services or public facilities, as well as the consequences of non-fulfillment of these requirements regarding quality, provided they do not mean the increase or reduction of remuneration to the private partner from the item 9) of this paragraph; 4) scope of exclusive rights of the private partner, if any; 5) possible assistance of the public partner to the private partner in acquiring permits and approvals necessary for the execution of the concession; 6) requirements concerning the special purpose company[173] regarding: legal form, establishment, minimum capital and minimum other resources or human resources, shareholders' structure, organizational structure and business premises, as well as business activities of the company; 7) ownership over the assets related to the project and, if and when necessary, obligations of the parties to the agreement to acquire project assets/means and possibly easement rights; 8) the amount and the method of calculation of the concession fee, if any; 9) remuneration of the private partner, irrespective whether it concerns tariffs or fees for provided facilities or services, method and formula for setting, periodical harmonization and adaptation of these tariffs or fees, possible payment that the public partner is to make to the private partner; 10) mechanisms

173 Pursuant to the Law on Public-Private Partnership and Concessions, the special purpose company is a commercial company which can be established by a private, or public partner for the purposes of concluding a public agreement, or for the purposes of implementation of a public-private partnership project

for increasing or reducing the remuneration (irrespective of the legal form) to the private partner, depending on the good or poor quality of his services/facilities; 11) procedure used by the public partner to consider and approve designs, construction plans and specifications, as well as procedures for testing and final inspection, approval and commissioning of an infrastructure facility, as well as of performed services, if necessary; 12) procedures for changing designs, construction plans and specifications, if unilaterally defined by the public partner and procedures for the approval of possible extension of deadlines and/or increase of the fee (including costs of financing); 13) scope of the private partner's commitment to provide, depending on the case, change of structures or services during the validity of the agreement, in order to meet the change in actual demand of the service, its continuity and its providing to all users under the essentially same conditions, as well as the effects of that on the fee (and costs of financing) for the private partner; 14) possible scope of changes in the public agreement after its conclusion, persons entitled to request it and the mechanism for harmonizing these changes; 15) possible rights of the public partner to approve to the private partner conclusion of the most important sub-contracting agreements or agreements with the daughter companies of the private partner or with other related persons; 16) securities to be provided by the private partner or public partner (including the securities of the public partner to the financiers); 17) insurance coverage that should be ensured by the private partner; 18) available remedies in case that any of the parties fails to fulfill its contractual obligations; 19) degree to which any of the parties can be exempt from responsibility for non exercising or for being in delay in exercising its contractual obligations due to circumstances which are realistically beyond its control (force majeure, change of laws etc.); 20) validity period of the public agreement and the rights and obligations of the parties after its expiry (including the status of the assets when they are handed over to the public partner), procedure of extending the contracted deadline, including its consequences on project financing; 21) compensation and clearing of debts; 22) consequences of harmful change of regulations; 23) reasons and consequences of the premature termination (including the minimum amount to be paid to the public or private partner), penalties and corresponding provisions foreseen in the item 19) of this paragraph; 24) possible limitations of responsibilities of the parties to the agreement; 25) all accessory or related contracts that should be made, including the ones intended for an easier financing of the project costs, as well as effects of these contracts on the public agreement. That particularly covers special provisions allowing the public partner to conclude a contract with the financiers of the private partner and secure the rights to assign the public agreement to the person indicated by the financiers, under specific conditions; 26) competent law and mechanism for settling disputes; 27) circumstances under which the public partner or certain third party may (temporarily or in some other way) undertake management of the facility

or other function of the private partner in order to ensure effective and continuous execution of the service and/or facilities being the subject matter of the contract in case of serious failures of the private partner to perform its obligations; 28) taxation and fiscal issues – if any.

Public agreement may be concluded upon obtained approval of the Government. Having obtained the said approval, the public partner must offer to the selected most favorable bidder the opportunity to sign the public concession agreement within the time period determined in the decision on the selection of the most favorable bid.

The concessionaire or the grantor[174] shall pay monetary fee for the concession in the amount and manner as regulated by the public concession agreement, except if the payment of the concession fee is not economically justifiable. The concession fee is determined depending on the kind of natural resource, type of activity, validity period of the concession, business risk and expected profit, equipment and area of the asset in the public use, i.e. public asset.

The public agreement may be financed by the private partner through a combination of direct capital investments or through borrowing, including without limitations structured or project financing etc. provided by international financial institutions, banks, or third parties (hereinafter: financiers).

Upon prior approval of the public partner, the private partner will be authorized to assign, mortgage, pledge, for a time period and scope in compliance with Law on Public-Private Partnership and Concessions, or the law regulating public property, any of his right or obligation from the public agreement or other property related to the project, in favor of the financiers, with an aim to secure payment of any occurred or future debt concerning the construction and financing, or refinancing of the concession.

At the request of the financiers and private partner, the public partner may accept to provide certain reasonably requested securities and to undertake certain responsibilities required by the private partner with respect to any liability from the public agreement, provided that such requests do not violate the distribution of project risks defined in the signed agreement. It should be stressed that the status of the parties within the concession is protected by the fact that it is prescribed that, in the case of change of regulations after the conclusion of the public agreement, which worsen the position of the private or public partner, the agreement may be changed without limitations, in the scope necessary to bring the private, or public partner in a position where he used to be at the moment of signing the public agreement, provided that the period of validity of the public agreement can by no means be longer than fifty years, with the possibility of extending the period along with selection of the private partner in the manner and under the procedure prescribed in the Law on Public-Private partnership and Concessions.[175]

174 It is assumed that this is a technical error in the text of the law, because the concessionaire should not be paying the concession fee to itself.

175 Article 52 of the Law on Public-Private Partnership and Concessions.

Relevant Laws, Strategic Documents, Plans and Bylaws

Laws

1. The Energy Law, Official Gazette of RS No. 145/14
2. The Law on the Spatial Plan of the Republic of Serbia, Official Gazette of RS No. 88/10
3. The Law on Environmental Protection, Official Gazette of RS No. 135/04, 36/09, and 14/16
4. The Law on Integrated Pollution Prevention and Control, Official Gazette of RS No. 135/04 and 25/15
5. Law on Planning and Construction, Official Gazette of RS No. 72/09, 81/09, 64/10 – decision of the Constitutional Court 24/11, 121/12, 42/13 - decision of the Constitutional Court 50/13 - decision of the Constitutional Court 98/13 - decision of the Constitutional Court 132/14 and 145/14
6. The Law on Forests, Official Gazette of RS No. 30/10 and 93/12
7. The Law on Waters Official Gazette of RS No. 30/10 and 93/12
8. The Law on Nature Protection, Official Gazette of RS No. 36/09, 88/10, 91/10 and 14/16
9. The Law on Air Pollution, Official Gazette of RS No. 36/09 and 10/13
10. The Law on Environmental Impact Assessment, Official Gazette of RS No. 135/04 and 36/09
11. The Law on Strategic Environmental Impact Assessment, Official Gazette of RS No. 135/04 and 88/10
12. General Administrative Procedure Law, Official Gazette of RS No. 18/16
13. The Law on Public-Private Partnership and Concessions, Official Gazette of RS No. 88/11 and 15/16

Strategies and Plans

1. The Strategy of Development of the Energy Sector of the Republic of Serbia until 2025 with Projections until 2030, Official Gazette of RS No. 101/15
2. National Renewable Energy Action Plan of the Republic of Serbia, Official Gazette of RS No. 53/13

Decrees

1. The Decree on Requirements and Procedure for Acquiring the Status of Privileged Electricity Producer, Preliminary Privileged Electricity Producer and Electricity Producer from Renewable Energy Sources, Official Gazette of RS No. 56/16
2. The Decree on the List of Projects for which the Environmental Impact Assessment Is Mandatory and on the List of Projects for which the Environmental Impact Assessment May be Requested, Official Gazette of RS No. 114/08
3. The Decree on Protection Regimes, Official Gazette of RS No. 31/12
4. The Decree on Location Requirements, Official Gazette of RS No. 35/15

5. The Decree on Conditions of Supply and Procurement of Electricity, Official Gazette of RS No. 63/13
6. Decree on Incentive Measures for Production of Electricity from Renewable Energy Sources and from High-efficiency Combined Production of Electricity and Heat, Official Gazette of RS No. 56/16
7. Decree on Power Purchase Agreement, Official Gazette of RS No. 56/16
8. The Decree on Fees for Incentives for Privileged Electricity Producers, Official Gazette of RS No. 12/16
9. The Decree on the Amount of Special Fee for Incentives for the Year 2016, Official Gazette of RS No. 12/16

Bylaws

1. The Rulebook on Energy Permit, Official Gazette of RS No. 15/15
2. The Rulebook on Contents of Information on Location and on Contents of Location Permit, Official Gazette of RS No. 3/10
3. Rulebook on Content, Method and Manner of Development and Performing Control of Technical Documentation According to Class and Intended Use of the Structure, Official Gazette of RS No. 23/15
4. Rulebook on Classification of Structures, Official Gazette of RS No. 22/15
5. Rulebook on General Rules of Parcelization, Regulation and Construction, Official Gazette of RS No. 22/15
6. Rulebook on Contents and Form of the Application for Issuing Water acts and Contents of Opinion in the Procedure of Issuing Water acts, Official Gazette of RS No. 74/10, 116/12 and 58/14
7. Rulebook on Contents of the Application Concerning the Need for Impact Assessment and Contents of the Application for Determining Scope and Contents of the Environmental Impact Assessment Study, Official Gazette of RS No. 69/05
8. Rulebook on Contents of Environmental Impact Assessment Study, Official Gazette of RS No. 69/05
9. The Rulebook on the Content and Manner of Issuing the Construction Permit, Official Gazette of RS No. 93/11 and 103/13 – decision of the Constitutional Court
10. Rulebook on Closing and Marking of Closed Construction Site, Official Gazette of RS No. 22/15
11. Rulebook on Content and Manner of Technical Inspection of Structures, Composition of the Commission, Content of Proposed Decision of the Commission Regarding the Fitness of the Structure for Use, Surveillance of Soil during Construction and Use, and Minimum Guarantee Periods for Different Types of Structures, Official Gazette of RS No. 27/15
12. The Rulebook on Minimum Guarantee Periods for Different Types of Structures and Works, Official Gazette of RS No. 93/11
13. The Rulebook on Licenses for Performing Energy Activity and Certification, Official Gazette of RS No. 87/15
14. Decision Determining the Methodology for Calculation of costs of Connection to the Electricity Transmission and Distribution System, Official Gazette of RS No. 109/15